



Office of the State Superintendent of Education

DISTRICT OF COLUMBIA

MAYOR ADRIAN M. FENTY

# **State Monitoring & Compliance Manual (IDEA Part B)**

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## OSSE Monitoring & Compliance Manual

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## 1. INTRODUCTION

The District of Columbia Office of the State Superintendent of Education (OSSE), Division of Special Education, Division of Quality Assurance and Monitoring, is pleased to provide this guidance and information regarding its Individuals with Disabilities Education Act (IDEA) Part B State Monitoring and Compliance System in this and a subsequent series of materials for local education agencies (LEAs).

As the state education agency (SEA) for the District of Columbia, OSSE's role is to set high expectations, provide resources and support, and exercise accountability to ensure that all residents receive an excellent education. OSSE's Vision for District of Columbia children with disabilities is that they become successful adults, prepared for further education, successfully obtaining and maintaining employment, living independently, and engaged in their community, and that during their years in secondary education, they will be educated in classrooms with their non-disabled peers and participate fully in school life.

OSSE's vision aligns with federal requirements pertaining to SEA monitoring responsibilities. The IDEA Part B regulations at 34 CFR §300.600 require that the SEA monitor the implementation of IDEA Part B, make annual determinations about the performance of each LEA, enforce compliance with IDEA Part B, and report annually on the performance of the SEA and each LEA. The primary focus of the SEA's monitoring activities must be on improving educational results and functional outcomes for all children with disabilities and ensuring that LEAs meet the program requirements of IDEA Part B. **In exercising its monitoring responsibilities, the SEA must ensure that when it identifies noncompliance with the requirements of IDEA Part B by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the SEA's identification of the noncompliance.**

The goal of OSSE's Monitoring and Compliance System is to ensure that LEAs are meeting the requirements of both federal and local regulations. In alignment with federal regulations and OSSE's Vision, OSSE's monitoring approach is outcome oriented. To achieve desired performance results, it is critical that OSSE works collaboratively with LEAs and engages in shared accountability practices that will maximize success for all students with disabilities. Monitoring activities that will enable OSSE to facilitate this collaborative approach to improved performance include: database reviews, on-site compliance monitoring, record reviews, dispute resolution activities, LEA self-assessments, Phase I and Phase II grant applications, and audit findings reviews.

Another key feature of OSSE's Monitoring and Compliance System is the direct linkage between monitoring activities and technical assistance. The Division of Special Education's Training and Technical Assistance Unit (T&TA) works directly with the Quality Assurance and Monitoring Unit to identify specific compliance areas that warrant general and targeted technical assistance. OSSE offers a multitude of training opportunities for LEAs to increase their knowledge of, and compliance with, IDEA Part B requirements and to discover methods to improve outcomes for students with disabilities. For more information on OSSE's T&TA, please contact [osse.tta@dc.gov](mailto:osse.tta@dc.gov).

OSSE is committed to a monitoring system that identifies noncompliance using methods that support the ultimate goal of improving educational results and functional outcomes for all students with disabilities. While monitoring activities must, by federal law, examine compliance issues, OSSE has very deliberately structured its monitoring approach in such a way that the broader themes of IDEA – inclusivity, quality of education, and teamwork – are emphasized.



## 2. STATE EDUCATION AGENCY AUTHORITY

OSSE has statutory authority under both federal and local law to establish, operate, and maintain an administrative process to ensure compliance with all federal statutes for the programs under its jurisdiction, including education of District children and youth with disabilities.

The IDEA section 616 requires each SEA to implement a General Supervision System that monitors the implementation of the IDEA Part B and its accompanying regulations. As the SEA for the District of Columbia, OSSE is responsible for the implementation of the General Supervision System for the District, which includes but is not limited to State complaint processes and Due Process adjudication in addition to LEA monitoring.

Under local special education law, OSSE *"has primary responsibility for the state-level supervisory functions for special education that are typically handled by a state department of education or public instruction, a state board of education, a state education commission, or a state education authority."* (DC ST 38-2561.01 (7)(a)(13))

The District of Columbia Municipal Regulations, Title 5, Board of Education, Subtitle E (Former Title 5) Chapters 22, 30 & 38, Subtitle A (District of Columbia Public Schools) Chapter 25 contain the local counterparts to the requirements of IDEA, beginning with the Free Appropriate Public Education (FAPE) requirement:

### ***5-E3000. Special Education Policy.***

***3000.1*** All local education agencies (LEA) in the District of Columbia shall ensure, pursuant to the Individuals with Disabilities Education Act (IDEA), that all children with disabilities, ages three to twenty-two, who are residents or wards of the District of Columbia, have available to them a free appropriate public education (FAPE) and that the rights of these children and their parents are protected.

### 3. STATE PERFORMANCE PLAN/ANNUAL PERFORMANCE REPORT

The IDEA Part B regulations at 34 CFR §300.600(c) require the SEA, as a part of its responsibilities, to use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in priority areas and the indicators established by the Secretary of Education for State Performance Plans (SPP). The Secretary has identified 20 indicators to measure SEA/LEA performance against IDEA regulations. In 2005, each SEA was required to submit an SPP with annual and six-year targets for each of the 20 indicators. Targets for indicators related to disproportionality, evaluation timelines, early childhood transition, secondary transition, correction of noncompliance, State complaint timelines, due process timelines and data were required to be set at 100%. Each year, SEAs must submit an Annual Performance Report (APR) to review and report on progress toward and/or compliance with the 20 indicators.

The Secretary's Part B Indicators are as follows:

- **Indicator 1 (Graduation):** *Percent of youth with IEPs graduating from high school with a regular diploma.*
- **Indicator 2 (Dropout):** *Percent of youth with IEPs dropping out of high school.*
- **Indicator 3 (Assessment):** *Participation and performance of children with IEPs on statewide assessments: A. Percent of the districts with a disability subgroup that meets the State's minimum "n" size that meet the State's AYP targets for the disability subgroup; B. Participation rate for children with IEPs; C. Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement assessment standards.*
- **Indicator 4 (Suspension and Expulsion):** *A. Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and B. Percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.*
- **Indicator 5 (LRE Settings):** *Percent of children with IEPs aged 6 through 21 served A. Inside the regular class 80% or more of the day; B. Inside the regular class less than 40% of the day; and C. In separate schools, residential facilities, or homebound/hospital placements.*
- **Indicator 6 (Preschool LRE):** *Percent of children aged 3 through 5 with IEPs attending a: A. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program; and B. Separate special education class, separate school or residential facility.*
- **Indicator 7 (Preschool Outcomes):** *Percent of preschool children aged 3 thorough 5 with IEPs who demonstrate improved: A. Positive social-emotional skills (including social relationships); B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and C. Use of appropriate behaviors to meet their needs.*
- **Indicator 8 (Parent Involvement):** *Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.*



- **Indicator 9 (Disproportionate Representation in Special Education):** Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.
- **Indicator 10 (Disproportionate Representation by Disability Category):** Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.
- **Indicator 11 (Evaluation):** Percent of children who were evaluated within 60 days (or state established timeline) of receiving parental consent for initial evaluation.
- **Indicator 12 (Early Childhood Transition):** Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.
- **Indicator 13 (Secondary Transition):** Percent of youth aged 16 and above with an IEP that includes coordinated, measurable, annual postsecondary goals and transition services that will reasonably enable the student to meet the post-secondary goals, and annual IEP goals related to the student's transition services needs.
- **Indicator 14 (Post-school Outcomes):** Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were: A. enrolled in higher education within one year of leaving high school; B. enrolled in higher education or competitively employed within one year of leaving high school; and C. enrolled higher education or some other postsecondary education or training or competitively employed or in some other employment within one year of leaving high school.
- **Indicator 15 (Correction of Noncompliance):** General supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.
- **Indicator 16 (State Complaint Timelines):** Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint.
- **Indicator 17 (Due Process Timelines):** Percent of adjudicated due process hearing requests that were adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party or in the case of an expedited hearing, within the required timelines.
- **Indicator 18 (Resolution Sessions):** Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.
- **Indicator 19 (Mediation):** Percent of mediations held that resulted in mediation agreements.
- **Indicator 20 (Valid and Reliable Data):** State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate.

All instances of SEA data collection regarding the above indicators, however conducted (through database reviews, written data requests, on-site monitoring, etc.), constitute "General Supervision" and thus are a part of OSSE's Monitoring and Compliance system. Any noncompliance identified pertaining to the indicators or related regulatory requirements must be corrected as soon as possible but in no case later than one year after the identification of the noncompliance.

#### 4. ANNUAL DETERMINATIONS

The IDEA Part B regulations at 34 CFR §§300.600(c) and 300.603 require the SEA to make “determinations” annually about the performance of each LEA based on information provided in the SPP/APR, information obtained through monitoring visits, and any other public information made available.

Noncompliance identified through information collected for SPP/APR reporting, for other U.S. Department of Education reporting, during on-site monitoring visits, during record reviews, during database reviews, for audits, through dispute resolution processes, and from other information available to OSSE will be considered in making LEA determinations. In addition, OSSE will consider the timely correction of noncompliance identified through these methods in making LEA determinations.

In making such determinations, OSSE will assign LEAs one of the following determination levels:

- Meets Requirements
- Needs Assistance
- Needs Intervention
- Needs Substantial Intervention

The criteria for each determination level are set by OSSE according to U.S. Department of Education, Office of Special Education Programs (OSEP) guidelines. IDEA specifies different levels of action/intervention depending on determination level. LEAs will be informed of their annual determination and any required actions/interventions in late summer/early fall.

For more information regarding determinations, refer to Appendix E.



## 5. OSEP MEMORANDUM OF AGREEMENT

On June 1, 2009, OSEP issued a letter to OSSE informing them of the U.S. Department of Education's intent to withhold 20 percent of OSSE's Federal Fiscal Year (FFY) 2009 funds reserved for State-level activities under section 611(e) of the IDEA based on its determination that OSSE "needs intervention" in implementing the requirements of the IDEA for the third consecutive year. The Department based its determination on the following areas of OSSE's noncompliance with IDEA requirements:

- Timely performance of initial evaluations and reevaluations.
- Timely implementation of hearing officer decisions.
- Timely identification and correction of noncompliance and effective monitoring to ensure placement in the least restrictive environment.
- Valid and reliable data for Indicators 9 and 10 (disproportionate representation) and Indicator 17 (timeliness of due process hearing).
- Compliance with secondary transition requirements.

The Department and OSSE entered into a Memorandum of Agreement (MOA) in December 2009 to: (a) establish benchmarks and reporting requirements for actions to be taken by OSSE to bring OSSE into substantial compliance with the IDEA in those areas cited by the Department as a basis for its determination that OSSE "needs intervention," and (b) resolve their dispute over the status of State-level funds withheld by the Department for the FFY 2009 Part B grant award to OSSE.

Pursuant to the MOA, OSSE must provide six reports (in addition to the APR) to OSEP. Reports must include data from all LEAs, including charter school LEAs, and provide the required content related to each benchmark. Each report must be submitted to the Department in accordance with the following reporting periods and timelines:

Report	Reporting Period	Report Due Date
First Report	September 4, 2009 – December 4, 2009	January 11, 2010
Second Report	December 5, 2009 – March 5, 2010	April 1, 2010
Third Report	March 6, 2010 – June 6, 2010	July 1, 2010
Fourth Report	June 7, 2010 – September 1, 2010	October 1, 2010
Fifth Report	September 2, 2010 – December 1, 2010	January 10, 2011
Sixth Report	December 2, 2010 – February 1, 2011	March 1, 2011

For each reporting period, OSSE will collect and analyze data related to the above listed areas of noncompliance. For each LEA with noncompliance identified through this data collection, findings of noncompliance will be issued and correction of noncompliance must be verified as soon as possible but in no case later than one year after the identification of the noncompliance.

For more information on the evidence standards for each area, specific benchmarks and methods for collecting data, refer to Appendix D.

## 6. BLACKMAN/JONES REQUIREMENTS

*Blackman/Jones v District of Columbia*<sup>1</sup> is a federal lawsuit filed in 1997 regarding the District's failure to convene timely due process hearings and issue Hearing Officer Determinations (HODs) (*Blackman*) and implement HOD and Settlement Agreements (SAs) within the legal timeframes (*Jones*). The case was settled by Consent Decree in 2006. The Consent Decree originally bound only the District of Columbia Public Schools, but its mandates were subsequently formally agreed between the parties to apply to all LEAs including independent Public Charter Schools.<sup>2</sup>

Under the *Jones* portion of the Decree, all District of Columbia LEAs must meet a series of targets for timely implementation of HODs and SAs, with successively higher targets over time. The *Blackman Jones* Court Monitor and Evaluation Team exercises oversight of progress towards the *Jones* targets and makes periodic reports to the Court regarding the barriers to compliance.

In light of the mandated inquiry by the *Blackman/Jones* Court as well as provisions in the MOA for HOD implementation, OSSE's monitoring activities seek to identify specific barriers to HOD/SA implementation and tracking as well as identify when LEAs do not meet particular targets related to HOD and SA implementation.

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<sup>1</sup> Federal Civil Action No. 97-1629 (PLF)

<sup>2</sup> Filing December 14, 2007; docket number 2036.



## 7. MONITORING PROCESS OVERVIEW

The goal of OSSE's Monitoring and Compliance System is to ensure that LEAs are meeting the requirements of both federal and local regulations. In alignment with federal regulations and OSSE's Vision, OSSE's monitoring approach is outcome oriented. However, if noncompliance is identified through any of OSSE's monitoring activities, **OSSE will require the LEA to correct the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance.**

Contrary to the notion that monitoring is an annual on-site process, OSSE employs a number of monitoring activities to ensure compliance with federal and local regulations and improve educational results and functional outcomes for students with disabilities. Monitoring activities include: database reviews, on-site compliance monitoring, record reviews, on-site focused monitoring, dispute resolution activities, LEA self-assessments, Phase I and Phase II grant applications, and audit findings reviews.

**Database Reviews:** In accordance with the MOA and with APR reporting requirements, OSSE will review data in the Special Education Data System (SEDS) and in the Blackman/Jones Database to identify noncompliance and assess progress toward federal and local targets for special education. Pursuant to the Blackman/Jones Consent Decree and Title 5, Section 5019 of the District of Columbia Municipal Regulations, all LEAs (including independent charter LEAs) are required to input data into the SEDS. Data for MOA reporting will be reviewed according to the schedule displayed on page 9. Data for APR indicators will be reviewed one time per year. LEAs will receive findings of noncompliance for noncompliance identified through database reviews. Additional information for MOA database reviews can be found in Appendix D.

**On-site Compliance Monitoring:** Twice per year, OSSE will conduct on-site compliance monitoring for a selection of LEAs. This process will include record reviews and interviews to identify noncompliance and assess progress toward federal and local targets for special education. Details regarding on-site compliance monitoring can be found on page 16.

**Nonpublic Monitoring:** OSSE is committed to ensuring that students educated in nonpublic settings are placed in the least restrictive environment; are receiving proper positive behavior supports; and are receiving appropriate services, including specialized instruction and transition services. Pursuant to D.C. Code §38-2561.07, nonpublic schools, applying for a Certificate of Approval (COA), shall receive an evaluation including an on-site inspection of the operations and facilities of the school or program. OSSE shall conduct an on-site inspection at least once during the period of the COA and may schedule other inspections as deemed necessary. The LEA responsible for the student placed in the nonpublic school is responsible for ensuring that the nonpublic school is compliant with federal and local rules and regulations. Therefore, should noncompliance be identified during a nonpublic review, the responsible LEA will receive notice of the findings of noncompliance and be accountable for correcting the noncompliance as soon as possible but in no case later than one year from the identification of noncompliance. Additional information regarding nonpublic monitoring can be found in Appendix F.

**Record Reviews:** Record reviews entail an examination of student level records that document the level of implementation of Individualized Education Programs (IEPs), financial and accounting



records, or any other record that may contain information necessary for federal or local reporting. The majority of record reviews conducted by OSSE will occur through database reviews, on-site compliance monitoring, and required audit activities. OSSE reserves the right to review records if information is not available in databases or at any such time that a review may be necessary. Findings of noncompliance identified through record reviews must be corrected as soon as possible but in no case later than one year after the noncompliance was identified.

**On-site Focused Monitoring:** Focused monitoring purposefully selects priority areas to examine for compliance and results while not specifically examining other areas for compliance in order to maximize resources, emphasize important variables, and increase the probability of improved results. OSSE intends to begin on-site focused monitoring during the 2010-2011 school year for selected LEAs during the scheduled on-site compliance monitoring visit. OSSE may choose to conduct an on-site focused monitoring visit in lieu of an on-site compliance monitoring visit if the LEA has demonstrated that it is in compliance with the regulatory requirements described in the Compliance Monitoring Areas. Details regarding on-site focused monitoring can be found on page 22.

**Dispute Resolution Activities:** The State complaint and due process processes are designed to resolve disputes between LEAs and parents (or organization or individual in the case of State complaints). In the fact finding stages of each of these processes, the investigator or hearing officer may identify noncompliance by the LEA. In the case of State complaints, findings of noncompliance are identified in the Letter of Decision. In the case of due process complaints, findings of noncompliance are identified in the HOD. Although OSSE may not issue an additional written finding of noncompliance, the Letter of Decision or HOD serves as the written notice of the finding of noncompliance. Findings identified through dispute resolution activities must be corrected in the timeline outlined in the Letter of Decision or HOD but in no case later than one year after the identification of the noncompliance. Additionally, findings made through these processes and the correction of these findings are tracked by OSSE and reported in OSSE's MOA reports and annual APR.

**LEA Self-Assessments:** The LEA self-assessment is a process by which LEAs assess their own performance and progress toward compliance with IDEA Part B. The self-assessment is designed to guide LEAs through a collaborative analysis and planning process to engage stakeholders in developing targeted improvement activities in the areas that the LEA is most in need. The self-assessment tool is based on the compliance monitoring tool (see Appendix C) used by OSSE for on-site monitoring visits thus LEAs can prepare for future on-site monitoring as well as clearly identify areas of noncompliance in student files and LEA policies and procedures. Through the self-assessment process, LEAs will develop a self-improvement plan that must be submitted to OSSE two months after receiving the self-assessment documents each year. LEAs identified for an on-site monitoring visit will not be required to complete a self-assessment in the year of the OSSE visit.

**Phase I and Phase II Grant Applications:** Grant applications submitted by LEAs include important assurances by the LEA that the LEA is in compliance with IDEA Part B regulations. In signing the assurances contained in the Phase I Application, LEAs attest that students within the LEA are receiving a free appropriate public education and that the LEA is properly using IDEA funds.

Should an LEA not be able to provide these assurances, or a date by which the LEA will be in compliance, OSSE may not be able to timely distribute funds to the LEA. Phase I applications are due to OSSE by the deadline contained within grant application information each year. More information regarding grant applications will be forwarded to LEAs at the beginning of each cycle or LEAs can contact [OSSE.DSE-PartBFinance@dc.gov](mailto:OSSE.DSE-PartBFinance@dc.gov).

**Audit Findings Review:** LEAs that spend \$500,000 or more in federal funds are required to receive an A-133 single audit and submit a copy of the management letter to OSSE within 30 days of receipt. Additionally, the District of Columbia Public Charter School Board (PCSB) requires all public charter schools in the district to receive an annual audit regardless of level of expenditures. Any noncompliance identified through audits must be corrected in accordance with the audit report. Audit findings will be considered in making annual LEA determinations.



**Part B Compliance Monitoring Areas**

Pursuant to federal regulations, OSSE may monitor LEAs in each of the following areas to ensure compliance with the IDEA. Although each monitoring area listed below may not be reviewed with each monitoring activity, LEAs must comply with each federal requirement and should continually assess their own progress toward compliance with each requirement.

**Part I – FAPE in the LRE**

- A. The LEA educates students in the least restrictive environment. (34 CFR §§300.114-300.117)
- B. The LEA ensures that IEPs are appropriately developed and implemented. (34 CFR §§300.320-300.504, §300.101)
- C. The LEA completes evaluations within the State-established timeline. (34 CFR §§300.300-300.311)
- D. The LEA ensures that students referred by Part C have an IEP implemented by their 3<sup>rd</sup> birthday. (34 CFR §300.101, §300.323)
- E. The LEA uses appropriate steps to successfully transition students from high school to post-secondary settings. (34 CFR §300.320)
- F. The LEA utilizes appropriate discipline processes and procedures. (34 CFR §§300.530-300.536)
- G. The LEA does not have a disproportionate representation of students in special education or specific disability categories. (34 CFR §300.646)
- H. The LEA provides instructional materials to blind persons or other persons with print disabilities in a timely manner. (34 CFR §300.172, §300.210)

**Part II – Dispute Resolution**

- A. The LEA timely implements due process complaint requirements. (34 CFR §§300.507-300.518; Blackman Jones Decree)
- B. The LEA timely responds to State complaint requests and decisions. (34 CFR §§300.151-300.152; OSSE State Complaint Policy)
- C. The LEA voluntarily engages in mediation when requested by parents/guardians. (34 CFR §300.506)

**Part III – Data**

- A. The LEA submits timely, valid and reliable data. (34 CFR §300.211)
- B. The LEA uses data to inform decision making. (34 CFR §300.211)

**Part IV – Fiscal**

- A. The LEA expends IDEA Part B funds in accordance with Federal laws, state laws and approved budget and spending plans. (34 CFR §300.202)
- B. The LEA uses IDEA Part B funds only to pay the excess costs of providing special education and related services to children with disabilities. (34 CFR §300.202)
- C. The LEA meets its maintenance of effort requirement. (34 CFR §300.203)
- D. The LEA properly calculates and expends CEIS funds. (34 CFR §300.646)
- E. The LEA does not co-mingle IDEA Part B funds with other funds. (34 CFR §300.162, §300.201)



- F. DCPS Only: The LEA expends its required proportionate share of Part B funds for students with disabilities parentally-placed in private schools. (34 CFR §300.134, §300.201)
- G. DCPS Only: The LEA provides funds to charter schools on the same basis as it provides funds to the other public schools in its jurisdiction. (34 CFR §300.209)

**LEA On-site Compliance Monitoring**

LEA on-site compliance monitoring is a process by which selected LEAs receive an on-site visit by OSSE's Quality Assurance and Monitoring Division for a comprehensive record review, stakeholder interviews, fiscal examination and follow-up technical assistance. The process is designed to identify noncompliance and assess LEA progress toward improving educational results and functional outcomes for all students with disabilities. On-site compliance monitoring also allows OSSE to determine if SEA implemented strategies have resulted in qualitative and quantitative improvements, and to formulate specific, tailored actions if improved outcomes have not been achieved.

On-site monitoring will follow a series of defined steps, according to the following timelines:

Activity	Timeline
Identification of LEAs for Fall on-site monitoring	August 2010
Letter informing LEAs of selection for on-site monitoring	August 2010
Pre-site visits	September 2010
On-site visits	September/October 2010
Monitoring reports issued to LEAs	December 2010
Development of any additional corrective actions	January 2011
Verification of correction of noncompliance	Ongoing
Identification of LEAs for Spring on-site monitoring	August 2010
Letter informing LEAs of selection for on-site monitoring	August 2010
Pre-site visits	February/March 2011
On-site visits	March & May 2011
Monitoring reports issued to LEAs	June/July 2011
Development of any additional corrective actions	August 2011
Verification of correction of noncompliance	Ongoing

**Step 1: Identification of LEAs for On-site Compliance Monitoring**

LEAs will be selected for an on-site compliance monitoring visit based on the consideration and evaluation of the following factors:

- Information provided in the LEA's previous self-assessment;
- Information provided in the LEA's most recent Phase I and Phase II Grant Application;
- Level of compliance on the prior year's APR Indicators 9, 10, 11, 12 and 13;
- Level of compliance on data reported in OSSE's MOA reports;
- Number of HODs/SAs not timely implemented;
- Number of State complaints filed against the LEA in the past year;
- Number of students in the LEA placed in a more restrictive setting during the past school year;
- Timely submission of data (programmatic and fiscal) to OSSE;
- Number of requests for reimbursement not approved by OSSE;
- Number of students served by the LEA;
- Date of last on-site monitoring visit; and
- Other Information available to OSSE.

## **Step 2: Notification of On-site Compliance Monitoring Selection**

LEA directors will be notified by letter and electronic mail of the scheduled monitoring visit according to the timeline outlined in the table on page 16. The letter will include the:

- Date of the monitoring visit;
- Suggested date for the pre-site visit;
- Purpose of the visit and planned activities; and
- Documents and information required for the pre-site and on-site monitoring visits.

LEAs are expected to plan as soon as possible for the on-site monitoring visit. For example, as soon as possible after notification of the visit, LEAs should plan for the accommodations and time needed for staff, family and student interviews and for OSSE record reviews. Likewise, LEAs should begin collecting documents needed for the fiscal monitoring portion of the visit.

OSSE plans to conduct an on-site compliance monitoring visit to every LEA in the District within a 3-year cycle.<sup>3</sup> Therefore, selection for an on-site visit should not be construed as a punitive action or as an indication that the LEA is not meeting compliance or performance targets.

## **Step 3: Pre-site Visit**

The pre-site visit is an opportunity for LEA and OSSE staffs to discuss the purpose of the on-site visit, confer about the agenda for the on-site visit, agree on logistics and review LEA data. It is also an occasion for the LEA to ask any questions regarding the visit and for the LEA to provide OSSE with documents needed prior to the visit.

At a minimum, documents that should be available for the pre-site visit include:

- A staff roster;
- A list of students with disabilities served by the LEA (if the LEA serves 75 or fewer students with disabilities);
- Student attendance records; and
- LEA written policies and procedures which address items in the fiscal section of the compliance monitoring tool.

The standard pre-site visit agenda is located at Appendix B.

## **Step 4: On-site Compliance Monitoring Visit and Activities**

Following its notification letter to each selected LEA and the subsequent pre-site visits, OSSE will conduct an on-site visit to each LEA. The on-site review is designed to determine if the LEA's special education program and services are compliant with local and federal regulations. If an LEA has more than one campus or school, OSSE may conduct its on-site visit at multiple locations. Regardless of the number of locations OSSE chooses to visit, only one monitoring report will be issued to the LEA.

During the on-site visit, OSSE will engage in the following activities:

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<sup>3</sup> The cycle timeline is subject to change based on OSSE monitoring priorities and/or federal requirements.



- **Record Reviews:** OSSE will examine student files on-site as well as student information included in SEDS and the Blackman/Jones database. Items that will be assessed during the record reviews are outlined in the compliance monitoring tool and align with the monitoring standards. LEAs are responsible for having student files available on the first day of the on-site visit. For LEAs serving 10 or fewer students with disabilities, all student files will be reviewed. For LEAs serving 11 – 40 students with disabilities, 10 student files will be reviewed. For LEAs serving 41 – 70 students with disabilities, 20 student files will be reviewed. For LEA serving 71+ students with disabilities, 30 student files per school site visited will be reviewed. All files will be reviewed for general compliance areas (IEP, LRE and data). OSSE reserves the right to review additional student files if the LEA has not demonstrated 100% compliance on APR Indicators 9, 10, 11, 12 and 13 or if a complaint has been filed against the LEA in the year prior to the visit.
- **Staff Interviews:** OSSE will interview the LEA's administrators, special education coordinator, special education teachers, general education teachers, related service providers and budget director. Interview questions align with the monitoring standards and will be used to triangulate data gathered from other monitoring activities. A summary of data collected through staff interviews will be included in the monitoring report.
- **Student and Family Interviews:** OSSE may choose to interview students with IEPs, and/or their families, to better understand compliance and performance in the LEA. In most cases, OSSE will ask the LEA to choose the students and/or family members for the interviews. In some cases, students and/or families may be selected by OSSE according to specific information (e.g. students involved in dispute resolution processes or students with expired IEPs). The LEA will be informed in advance of the names of any students and/or families selected by OSSE for an interview. In either case, the LEA is responsible for coordinating the interviews with students and/or their families. If OSSE selects students who are involved in the Child and Family Services Administration system, incarcerated, in the custody of the Department of Youth Rehabilitation Services and/or receive services through the Department of Mental Health or other District agencies, OSSE will take steps to coordinate its interviews with those agencies. Interview questions align with the monitoring standards and will be used to triangulate data gathered from other monitoring activities. A summary of data collected through student and/or family interviews will be included in the monitoring report.
- **Fiscal Monitoring Activities:** OSSE will conduct fiscal monitoring activities while on-site. Fiscal monitoring may include document and record reviews, interviews and/or a demonstration of financial processes and systems. Items to be assessed can be found in the fiscal section of the compliance monitoring tool. LEAs will be informed in advance of materials that must be provided.
- **Individual Student-Level Monitoring:** During the on-site compliance monitoring visit, OSSE may choose to conduct individual student-level monitoring. Individual student-level monitoring consists of an in-depth review of one student's IEP; an in-depth review of all progress reports, attendance records and discipline records regarding the student; interviews with all teachers and service providers associated with the student; interviews



with the student (if appropriate) and the student's parent or guardian; and an observation of the classrooms and programs to which the student is assigned. Information and findings regarding the individual student-level monitoring will be included in the on-site compliance monitoring report. LEAs will be informed in advance of the pre-site visit if individual student-level monitoring will occur during the on-site visit.

#### **Step 5: Desk Review**

Following the on-site visit, OSSE's Quality Assurance & Monitoring team will conduct a desk review of additional information available regarding the LEA. Information reviewed may include, but is not limited to, data in SEDS, student attendance records, Encounter Tracking Forms submitted to the District of Columbia Public Schools (DCPS) Medicaid Recovery Unit for the purposes of Medicaid recoupment for school-based Health Related Services, Related Services Management Reports, the Interim Data Collection Tool, other monitoring reports issued to the LEA (e.g. secondary transition monitoring reports or evaluation monitoring reports), State complaint Letters of Decision, HODs, and/or the LEA's website.

#### **Step 6: Letter of Findings and Monitoring Report**

Within three months of the on-site visit, OSSE will notify the LEA of any findings of noncompliance identified during the on-site visit. Attached to the Letter of Findings will be a detailed monitoring report that will specifically outline student and LEA level noncompliance. The monitoring report will also delineate student and LEA level corrective actions necessary for the LEA to correctly implement the specific regulatory requirement. Monitoring reports are intended to promote the improvement of educational results and functional outcomes for students with disabilities through the identification of noncompliance. These reports will align with items in the compliance monitoring tool and with monitoring standards. Additionally, monitoring reports will serve as a method for LEAs to certify the correction of student-level citations and the completion of LEA-level corrective actions.

**For all identified noncompliance, LEAs must correct the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance.** The date of issuance of the Letter of Findings and accompanying monitoring report serves as the date of the Identification of the noncompliance.

Pursuant to OSEP Memorandum 09-02 dated October 17, 2008 (OSEP Memo 09-02), OSSE must account for all instances of noncompliance. In determining the steps that the LEA must take to correct the noncompliance and document such correction, OSSE may consider a variety of factors. For any noncompliance concerning a child-specific requirement that is not subject to a specific timeline requirement, OSSE must also ensure that the LEA has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA. In addition, OSSE must ensure that each LEA has completed the required action (e.g. completed the evaluation although late). A copy of OSEP Memo 09-02 can be found in Appendix A.

Thus, OSSE will make both student level and LEA level findings of noncompliance within the monitoring report. Noncompliance is corrected when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement for all students with disabilities. The monitoring report will detail the required student level and LEA level corrective actions required to assist the



LEA in correctly implementing the specific regulatory requirement. OSSE may also require the LEA to conduct a root cause analysis to determine the reasons for the identified noncompliance. The requirement to conduct a root cause analysis may be contained within the monitoring report cover letter or the Additional LEA Corrective Actions section of the report.

LEAs are strongly encouraged to share the Letter of Findings and monitoring report with its stakeholders and the community through the LEA's website or a public notice in a local newspaper. The findings and corrective actions should routinely be shared and discussed with the LEA's School Board or Board of Directors.

#### **Step 7: Corrective Action Plans**

Contained within the monitoring report, OSSE will provide a list of required student level and LEA level corrective actions for noncompliance identified through record reviews and certain interviews. If no additional findings of noncompliance are identified through other data collection processes (e.g., OSSE's desk review), LEAs will not be required to develop a Corrective Action Plan (CAP). In that case, the monitoring report will serve as the CAP for the LEA. In the event of an additional finding of noncompliance identified through other data collection processes, OSSE will require the LEA to develop a CAP specific to the additional area(s) of noncompliance. The CAP will be due to OSSE 30 days after the LEA's receipt of the monitoring report. LEAs may also be required to conduct a root cause analysis to determine the reasons for the identified noncompliance. Should the LEA be required to conduct a root cause analysis, the LEA must submit documentation of this activity to OSSE within 90 days after the LEA's receipt of the monitoring report.

Corrective actions, whether generated through the monitoring report or through an LEA CAP, may be relatively uncomplicated and non-time consuming (e.g. correcting a data error in SEDS) or may be multifaceted and involved (e.g. developing a policy and procedures for ensuring appropriate discipline processes). More simple corrective actions may be accomplished by one staff member or through a routine IEP meeting, while more complex corrective actions may require extensive analysis and collaboration with the LEA leadership and/or Boards of Directors. In either case, the noncompliance must be corrected as soon as possible but in no case later than one year after the identification of the noncompliance.

OSSE is committed to providing technical assistance to LEAs as they formulate CAPs and/or as they complete corrective actions. Assistance from the T&TA team within OSSE will be available to LEAs as they strive toward correction of noncompliance and improvement of educational results and functional outcomes for students with disabilities.

#### **Step 8: Verification of Correction of Noncompliance**

After the LEA has certified correction of student level and LEA level noncompliance, OSSE will verify the correction of noncompliance.

- To verify the correction of student level citations, OSSE will select a sample of the original student files reviewed to verify that the required action has been completed. The number of files sampled will be proportionate to the number of files reviewed. For example, OSSE may review five student files for LEAs serving 70 or fewer students with disabilities and 15 student files for LEAs serving 71+ students with disabilities. Correction of noncompliance



will be complete when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement. Additionally, OSSE will select a sample of student files that were not originally reviewed or generate a report from SEDS to verify correction of noncompliance. The number of files sampled will be proportionate to the number of files reviewed. For example, OSSE may review five student files for LEAs serving 70 or fewer students with disabilities and 15 student files for LEAs serving 71+ students with disabilities. Correction of noncompliance will be complete when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement.

- For LEA level noncompliance, OSSE will review documents submitted by the LEA that evidence the completion of required corrective actions and will select a sample of student files that were not originally reviewed or generate a report from SEDS to verify correction of noncompliance. The number of files sampled will be proportionate to the number of files reviewed. For example, OSSE may review five student files for LEAs serving 70 or fewer students with disabilities and 15 student files for LEAs serving 71+ students with disabilities. Correction of noncompliance will be complete when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement.

Pursuant to OSEP Memo 09-02, OSSE must verify the correction of noncompliance within one year of the identification of the noncompliance; therefore, verification activities will occur before the conclusion of the one-year timeline.

#### **Step 9: Closure of Findings of Noncompliance**

After OSSE has verified the correction of the noncompliance, OSSE will inform the LEA in writing that the finding of noncompliance is closed. LEAs should continue to conduct record review activities to identify any areas of need that may arise before future OSSE monitoring activities. Longstanding noncompliance extending beyond the one-year correction period will result in additional enforcement actions by OSSE and will affect the LEA's annual determination. Likewise, the LEAs timely correction of noncompliance will also be considered in the LEA's annual determination.

**LEA On-site Focused Monitoring**

As defined by the National Center for Special Education Accountability Monitoring, "Focused monitoring purposefully selects priority areas to examine for compliance and results while not specifically examining other areas for compliance in order to maximize resources, emphasize important variables, and increase the probability of improved results."<sup>4</sup> Focused monitoring performed by the OSSE will assess an LEA's performance in the targeted focused area based upon a variety of sources including:

- Data contained in SEDS;
- The results of the LEA's self-assessment;
- Annual APR data;
- Student record reviews;
- Observation of selected programs; and
- Interviews of staff, parents and students (if appropriate).

If an LEA is selected for focused monitoring, the focused monitoring will occur at the same time as the on-site compliance monitoring visit. As such, the steps for focused monitoring mirror the steps for on-site monitoring with the addition of classroom observations and stakeholder meetings to discuss root cause analysis, as necessary.

**Step 1: Identification of LEAs for On-site Focused Monitoring**

LEAs will be selected for an on-site focused monitoring visit from the list of LEAs chosen for an on-site compliance monitoring visit, based on the consideration and evaluation of the following factors:

- Information provided in the LEA's previous self-assessment related to the focused monitoring area;
- Level of compliance and results on the prior year's APR Indicators related to the focused monitoring area;
- Number of due process complaints filed against the LEA in the past year related to the focused monitoring area;
- Number of State complaints filed against the LEA in the past year related to the focused monitoring area; and
- Number of students served by the LEA.

**Step 2: Notification of On-site Focused Monitoring Selection**

LEA directors will be notified by letter and electronic mail of the scheduled focused monitoring visit prior to the scheduled pre-site visit. The letter will include the:

- Focused monitoring area;
- Purpose of the visit and planned activities; and
- Documents and information required for the pre-site and on-site monitoring visits.

<sup>4</sup> See the U.S. Department of Education's funded PowerPoint presentation on focused monitoring at [http://www.monitoringcenter/suhsc.edu/PDF%20PPT/NERRC\\_CIFMS\\_09212003.pdf](http://www.monitoringcenter/suhsc.edu/PDF%20PPT/NERRC_CIFMS_09212003.pdf)



### Step 3: Pre-site Visit

The focused monitoring pre-site visit will be held in conjunction with the on-site monitoring pre-site visit. The focused monitoring visit is an opportunity for LEA and OSSE staffs to discuss the purpose of the focused monitoring visit, confer about the agenda for the focused monitoring visit, agree on logistics and review LEA data. It is also an occasion for the LEA to ask any questions regarding the focused monitoring visit and for the LEA to provide OSSE with documents needed prior to the visit.

### Step 4: On-site Focused Monitoring Visit and Activities

Following its notification letter to each selected LEA and the subsequent pre-site visits, OSSE will conduct an on-site focused monitoring visit to selected LEAs in conjunction with the on-site compliance monitoring visit. The on-site focused monitoring review is designed to examine compliance and results for the specific focus area. During the on-site visit, OSSE will engage in the following activities:

- **Record Reviews:** OSSE will examine information in student files on-site as well as student information included in SEDS regarding the focus area. Items that will be assessed during the record reviews are in-depth and specific to the focus area. LEAs are responsible for having student files available on the first day of the on-site visit. The number of student files reviewed for focused monitoring will be calculated based on the number of students served within the LEA for which the focus area applies. (For example, if the focus area is Part C to Part B transition, OSSE will review a percentage of files for three and four year olds enrolled in the LEA.)
- **Classroom/Program Observations:** OSSE will observe classrooms or programs that relate to the focus area. The purpose of the observation is to identify any potential noncompliance and/or root causes of the LEA's noncompliance in the focus area.
- **Staff Interviews:** OSSE will interview the LEA's administrators, special education coordinator, special education teachers, general education teachers and related service providers related to the focused area. Interview questions will be used to triangulate data gathered from other monitoring activities.
- **Student and Family Interviews:** OSSE may choose to interview students with IEPs in the related focus area, and/or their families, to better understand compliance and performance in the LEA. Students and/or families will be selected by OSSE according to specific information regarding the focus area (e.g. students with IEPs with noncompliance in the focus area). The LEA will be informed in advance of the names of any students and/or families selected by OSSE for an interview. The LEA is responsible for coordinating the interviews with students and/or their families. If OSSE selects students who are involved in the Child and Family Services Administration system, incarcerated, in the custody of the Department of Youth Rehabilitation Services and/or receive services through the Department of Mental Health or other District agencies, OSSE will take steps to coordinate its interviews with those agencies. Interview questions will be used to triangulate data gathered from other monitoring activities.



- **Intensive Individual Focused Review:** Intensive qualitative review provides an additional tier of examination of special education compliance and quality assurance, allowing OSSE to get behind the data and look directly at the adult practices and lived experiences of a sample of students. OSSE will make a selection of students within the LEAs identified for focused monitoring in each given cycle. Intensive individual review activities will include: interviews of students, their families, and staff; classroom observations; and curriculum materials review.
- **Stakeholder Meeting/Root Cause Analysis Planning:** During the on-site focused monitoring visit, OSSE will meet with stakeholders to discuss data regarding the focus area and to identify potential root causes of noncompliance within the focus area. The LEA is responsible for planning the logistics of the meeting and inviting the proper stakeholders.
- **Staff and Parent Surveys:** OSSE may survey LEA staff members and parents regarding compliance and performance with the focus area. The survey may be written or electronic and will be standardized for all survey participants. Survey results will be used to triangulate data gathered from other monitoring activities.

#### **Step 5: Letter of Findings and Monitoring Report**

Within three months of the on-site visit, OSSE will notify the LEA of any findings of noncompliance identified during the focused monitoring visit. The on-site monitoring report will delineate student and LEA level corrective actions necessary for the LEA to correctly implement the specific regulatory requirement. **For all identified noncompliance, LEAs must correct the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance.** The date of the monitoring report serves as the date of the identification of the noncompliance.

#### **Step 6: Corrective Action Plans**

Contained within the monitoring report, OSSE may provide a list of required student level and LEA level corrective actions for noncompliance identified through the focused monitoring visit. If OSSE does not indicate any additional corrective actions, the monitoring report will serve as the corrective action plan (CAP) for the LEA. OSSE may also require the LEA to develop a CAP specific to the focus area. The CAP will be due to OSSE 30 days after the LEA's receipt of the monitoring report. The CAP must address the process the LEA will take to correct student level and LEA level noncompliance as well as the LEA's plan to improve results in the focus area.

OSSE is committed to providing technical assistance to LEAs as they formulate CAPs and/or as they complete corrective actions. Assistance from the T&TA team within OSSE will be available to LEAs as they strive toward correction of noncompliance and improvement of educational results and functional outcomes for students with disabilities.

#### **Step 7: Verification of Correction of Noncompliance**

After the LEA has certified correction of student level and LEA level noncompliance, OSSE will verify the correction of noncompliance.

- To verify the correction of student level citations, OSSE will select a sample of the original student files reviewed to verify that the required action has been completed. Additionally,

OSSE will select a sample of student files that were not originally reviewed or generate an updated report from SEDS to ensure that the LEA is correctly implementing the specific regulatory requirement.

- For LEA level noncompliance, OSSE will review documents submitted by the LEA that evidence the completion of required corrective actions and will select a sample of student files that were not originally reviewed or generate a report from SEDS to verify correction of noncompliance. Correction of noncompliance will be complete when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement.

Pursuant to OSEP Memo 09-02, OSSE must verify the correction of noncompliance within one year of the identification of the noncompliance; therefore, verification activities will occur before the conclusion of the one-year timeline.

#### **Step 8: Closure of Findings of Noncompliance**

After OSSE has verified the correction of the noncompliance, OSSE will inform the LEA in writing that the finding of noncompliance is closed. LEAs should continue to conduct record review activities to identify any areas of need that may arise before future OSSE monitoring activities. Longstanding noncompliance extending beyond the one-year correction period will result in additional enforcement actions by OSSE and will effect the LEA's annual determination. Likewise, the LEAs timely correction of noncompliance will also be considered in the LEA's annual determination.

OSSE intends to begin on-site focused monitoring during the 2010-2011 school year and will provide LEA's selected for on-site focused monitoring with additional information prior to the pre-site visit. OSSE may choose to conduct an on-site focused monitoring visit in lieu of an on-site compliance monitoring visit if the LEA has demonstrated that it is in compliance with the regulatory requirements described in the Compliance Monitoring Areas.



### **Memorandum of Agreement Activities**

On January 11, 2010, LEAs received an OSSE Memorandum from Assistant Superintendent Tamera Lewis informing them of the executed MOA with OSEP. A component of the MOA requires OSSE to complete a random sampling of 100 IEPs of youth aged 16 and above for IEP secondary transition content review. For each reporting period, OSSE will select IEPs for review from among all LEAs that serve students in the applicable age range. The IEPs will be selected equitably among LEAs based on the percentage of students with disabilities in this age range served by each LEA, relative to the total number of students with disabilities in this age range in the District.

During each reporting period, OSSE will review 100 IEPs for required secondary transition content and report the results of those reviews in the progress report for the relevant reporting period. Following the review of the 100 IEPs for each period, OSSE will issue monitoring reports with detailed student level and LEA level corrective actions to each LEA. LEAs must correct the findings as soon as possible but in no case later than one year after the identification of the noncompliance. Monitoring reports will mandate the OSSE imposed timeline for correction of noncompliance for each reporting period.

Likewise, during each reporting period, OSSE will review data from SEDS regarding the timely initial evaluations and reevaluations. Following the SEDS reviews, OSSE will issue monitoring reports with detailed student level corrective actions to each LEA. LEAs must ensure that the individual students named in each report receive the evaluation, although late, and report this action to OSSE. OSSE will correct the student level and LEA level findings of noncompliance when the LEA has demonstrated that it is correctly implementing regulatory requirements regarding timely initial evaluations and timely reevaluations by achieving 100% compliance for the following quarterly report. LEAs must correct the findings as soon as possible but in no case later than one year after the identification of the noncompliance. Monitoring reports will mandate the OSSE imposed timeline for correction of noncompliance for each reporting period.

The MOA also outlines OSSE's activities regarding timely implementation of HODs and LEA compliance with LRE requirements, specifically LEA's provision of continuum of placements and services. For each of these areas, OSSE will also issue a Letter of Findings when noncompliance has been identified and require that the noncompliance be corrected as soon as possible but in no case later than one year after the identification of the noncompliance.



**Additional Findings of Noncompliance**

As the SEA, OSSE is required to identify findings of noncompliance, notify LEAs of findings of noncompliance and ensure the correction of the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance. At times, OSSE may become aware of noncompliance outside of the monitoring activities described in this section. Although the findings may not be associated with any of the scheduled activities, OSSE remains responsible for identifying and ensuring correction of the noncompliance.

Should OSSE become aware of an LEA's noncompliance with any regulatory requirement in 34 CFR §300, OSSE will notify the LEA in writing of the noncompliance and will indicate the required corrective action necessary to correct the finding of noncompliance. Correction of noncompliance will be complete when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement.

## **8. APPENDICES**

Appendix A - OSEP Memo 09-02

Appendix B - Monitoring Agendas (Pre-site Monitoring Agenda and On-site Monitoring Agenda)

Appendix C - Compliance Monitoring Tool

Appendix D - MOA Excerpt

Appendix E - Determinations Information and Frequently Asked Questions

Appendix F - Nonpublic Monitoring Supplement



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OCT 17 2008

Contact Person	
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OSEP 09-02
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**TO :** Chief State School Officers  
Lead Agency Directors

**FROM :** William W. Knudsen *William W. Knudsen*  
Acting Director  
Office of Special Education Programs

**SUBJECT :** Reporting on Correction of Noncompliance in the Annual  
Performance Report Required under Sections 616 and 642 of the  
Individuals with Disabilities Education Act.

**Introduction**

Pursuant to sections 616(d) and 642 of the Individuals with Disabilities Education Act (IDEA), the Department reviews each State's Annual Performance Report (APR) and, based on data provided in the State's APR, information obtained through monitoring visits, including verification visits, and any other public information, determines if the State: Meets Requirements, Needs Assistance, Needs Intervention, or Needs Substantial Intervention. In making determinations in 2007 and 2008, the Office of Special Education Programs (OSEP) considered, among other factors, whether a State demonstrated substantial compliance on all compliance indicators either through reporting a very high level of performance (generally 95% or better) or correction of noncompliance.<sup>1</sup>

The purpose of this memorandum is twofold. First, the memorandum reiterates the steps a State must take in order to report that the previously identified noncompliance has been corrected. Second, the memorandum describes how we will factor evidence of correction into our analysis of whether the State has demonstrated substantial compliance for purposes of determinations under sections 616 and 642 of the IDEA (beginning with the Department's 2010 determinations based on a review of the FFY 2008 APRs). This memorandum also addresses concerns

<sup>1</sup> For Indicators B-15 and C-9, which measure timely correction of noncompliance, the only way for States to demonstrate substantial compliance is by demonstrating timely correction.



identified in our review of States' FFY 2005 and FFY 2006 APRs about identification and correction of noncompliance and low performance in compliance areas.

### **Issue 1 – Demonstrating Correction**

As noted in OSEP's prior monitoring reports and verification visit letters, in order to demonstrate that previously identified noncompliance has been corrected, a State must:

- (1) Account for all instances of noncompliance, including noncompliance identified: (a) through the State's on-site monitoring system or other monitoring procedures such as self-assessment; (b) through the review of data collected by the State, including compliance data collected through a State data system; and (c) by the Department;
- (2) Identify where (in what local educational agencies (LEAs) or early intervention services (EIS) programs) noncompliance occurred, the percentage level of noncompliance in each of those sites, and the root cause(s) of the noncompliance;<sup>2</sup>
- (3) If needed, change, or require each LEA or EIS program to change, policies, procedures and/or practices that contributed to or resulted in noncompliance; and
- (4) Determine, in each LEA or EIS program with identified noncompliance, that the LEA or EIS program is correctly implementing the specific regulatory requirement(s). This must be based on the State's review of updated data such as data from subsequent on-site monitoring or data collected through a State data system.

If an LEA or EIS program did not correct identified noncompliance in a timely manner (within one year from identification), the State must report on whether the noncompliance was subsequently corrected. Further, if an LEA or EIS program is not yet correctly implementing the statutory/regulatory requirement(s), the State must explain what the State has done to identify the cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance including, as appropriate, enforcement actions taken against any LEA or EIS program that continues to show noncompliance.

Regardless of the specific level of noncompliance, if a State finds noncompliance in an LEA or EIS program, the State must notify the LEA or EIS program in writing of the noncompliance, and of the requirement that the noncompliance be corrected as soon as possible, but in no case more than one year from identification (i.e., the date on which the State provided written notification to the LEA or EIS program of the noncompliance). In determining the steps that the LEA or EIS program must take to correct the noncompliance and to document such correction, the State may consider a variety of factors, including whether the noncompliance: (1) was extensive or found in only a small percentage of files; (2) resulted in the denial of a basic right under the IDEA (e.g., an extended delay in an initial evaluation with a corresponding delay in the child's receipt of a free appropriate public education or early intervention services, or a failure to provide services in accordance with the individualized education program or individualized family service plan); and (3) represents an isolated incident in the LEA or EIS program, or reflects a long-standing failure to meet the IDEA requirements. Thus, while a State may

<sup>2</sup> Please note that while we are not requesting that States provide, in the APR, lists of specific LEAs or EIS programs found out of compliance, we may review documentation of correction that the State required of the LEA or EIS program when we conduct a verification visit or other monitoring activity in a State.

determine the specific nature of the required corrective action, the State must ensure that any noncompliance is corrected as soon as possible, but in no case more than one year from identification.

For any noncompliance concerning a child-specific requirement that is not subject to a specific timeline requirement (State Performance Plan (SPP)/APR Indicators B-9, B-10, B-13, C-8A and C-8B), in addition to the steps above, the State also must ensure that the LEA or EIS program has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA or EIS program. Similarly, for any noncompliance concerning a child-specific timeline requirement (SPP/APR Indicators B-11, B-12, C-1, C-7, and C-8C), in addition to the steps enumerated above, the State must ensure that the LEA or EIS program has completed the required action (e.g., the evaluation or initiation of services), though late, unless the child is no longer within the jurisdiction of the LEA or EIS program. In ensuring that each individual case of noncompliance has been corrected, the State does not need to review each child's record in the LEAs or EIS programs where the noncompliance occurred, but rather may review a reasonable sample of the previously noncompliant files to verify that the noncompliance was corrected.

#### **Issue 2 – Factoring Correction into Evaluation of Substantial Compliance**

For purposes of the Department's IDEA section 616 determinations issued since June 2007, we considered a State to be in substantial compliance relative to a compliance indicator if the State's data indicate a very high level of compliance (generally 95% or above), or if the State nonetheless demonstrated correction of identified noncompliance related to that indicator. In the interest of fairness to all States, we will evaluate whether a State demonstrated correction of identified noncompliance related to an indicator when we make our 2009 determinations based on the FFY 2007 APRs, and will use the same approach we used in 2007 and 2008. However, some States are reporting very low levels of compliance year after year, while also reporting that they have corrected previously identified noncompliance. This concerns us because it indicates that systemic correction of noncompliance did not occur. Thus, in the interest of improving LEA and EIS program performance and ultimately improving results for infants, toddlers, children and youth with disabilities, beginning with our 2010 determinations:

- (1) We will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year's noncompliance if the State's current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
- (2) We will credit a State with correction relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year's APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report for each compliance indicator whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year's APR as well as that identified by the Department more than one year previously.

For example --



- Reporting correction of noncompliance identified in on-site monitoring findings alone will not be sufficient to demonstrate correction if the data reported in a State's prior year's APR showing noncompliance were collected through the State's data system, and the monitoring findings do not include all of the instances of noncompliance identified through the prior year's data.
- In order to report correction of noncompliance identified in data based on a statewide sample, the State would need to track the noncompliance identified in the sample data reported in its prior year's APR back to the specific LEAs or EIS programs with noncompliance and report correction for those LEAs or EIS programs.

In other words, a State's demonstration of correction needs to be as broad in scope as the noncompliance identified in the prior year's data.

We hope that you find the information in this memorandum helpful in collecting and reporting data for your future SPP/APR submissions. OSEP is committed to supporting your efforts to improve results for infants, toddlers, children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or would like to request technical assistance, please do not hesitate to call your OSEP State Contact.

cc: Part B State Directors  
Part C Coordinators



## 2010 OSEP Leadership Mega Conference

Collaboration to Achieve Success from Cradle to Career

### OSEP Update on Identification and Correction of Noncompliance Part B

Dan Schreier, Gregg Corr, Jill Harris, Ken Klenas, Kate  
Moran, Larry Ringer

54-102



### Previous OSEP Guidance

OSEP has previously provided guidance regarding the identification and correction of noncompliance in:

- Frequently Asked Questions, September 3, 2008 (Disseminated at the National Accountability Conference)
- OSEP Memorandum 09-02, October 17, 2008



## Updated Guidance



We will address issues that have surfaced through APR review and verification visits:

- OSEP's June 2009 SPP/APR response tables (for FFY 2007);
- OSEP's June 2010 SPP/APR response tables (for FFY 2008); and
- The verification visit letters for visits conducted in Fall 2009.



## 2010 OSEP Leadership Mega Conference

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### IDENTIFICATION OF NONCOMPLIANCE





## Key Question 1 - Identification



Q1. Must States identify all noncompliance regardless of the source of the data establishing noncompliance?



## Key Principle 1 - Identification



1. All noncompliance must be identified and corrected:
  - From all sources of compliance data
  - Regardless of the amount of noncompliance (no thresholds)



Answering the Questions:  
All Sources (review of data in a database)



Specifically, in reviewing data from a database, the following also apply:

- A State must review data from its database at least once each APR reporting period for the purpose of identifying noncompliance.



Answering the Questions:  
All Sources (review of data in a database)



- A State may identify one or more points in time during the SPP/APR reporting period when it will review compliance data from the database to identify and make findings of noncompliance.
- A State may review data in the database at other times as well, for purposes such as targeting resources, guidance or other technical assistance.





## Problem - All Sources

- A State uses a database to collect data to report on Indicator 12 (early childhood transition) for reporting in the APR. The State failed to examine those data for the purposes of identifying noncompliance at any time during the APR reporting period and made no findings of noncompliance.



## Correct approach:

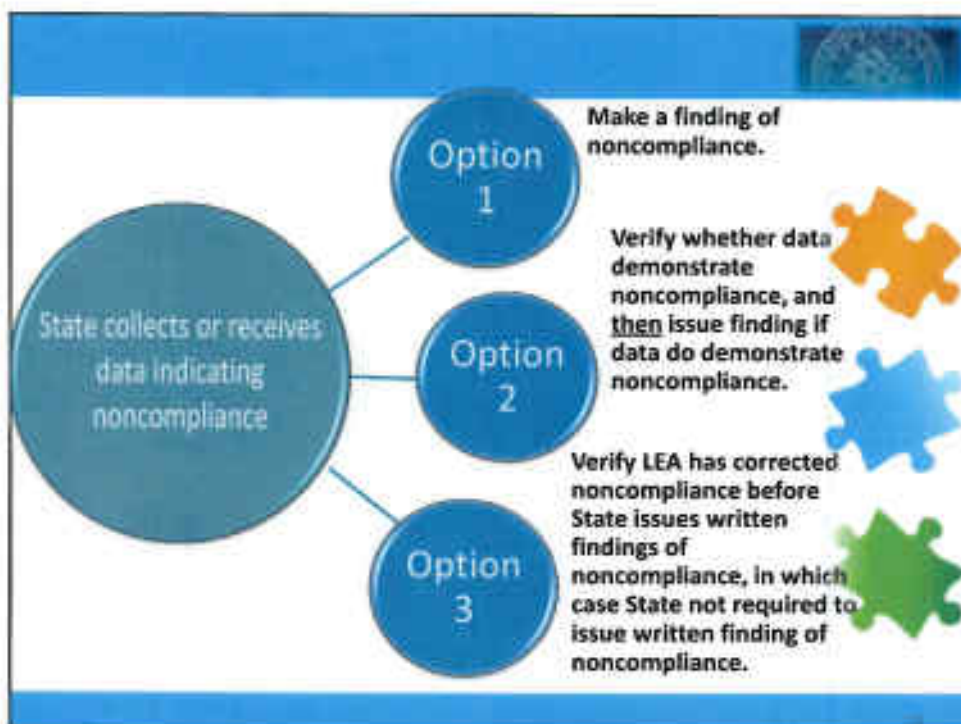
The State must make a finding of noncompliance in a timely manner, unless:

- In verifying whether the data demonstrate noncompliance, the State determines that the data do not demonstrate noncompliance; or
- The State verifies, using both prongs of OSEP Memo 09-02, that the LEA has corrected the noncompliance before the State issues written findings of noncompliance.



## Key Question 2 - Identification

Q2. What actions must a State take if it collects or receives information indicating noncompliance?





### Key Question 3 - Identification



Q3. May States use “thresholds” for identification of noncompliance?



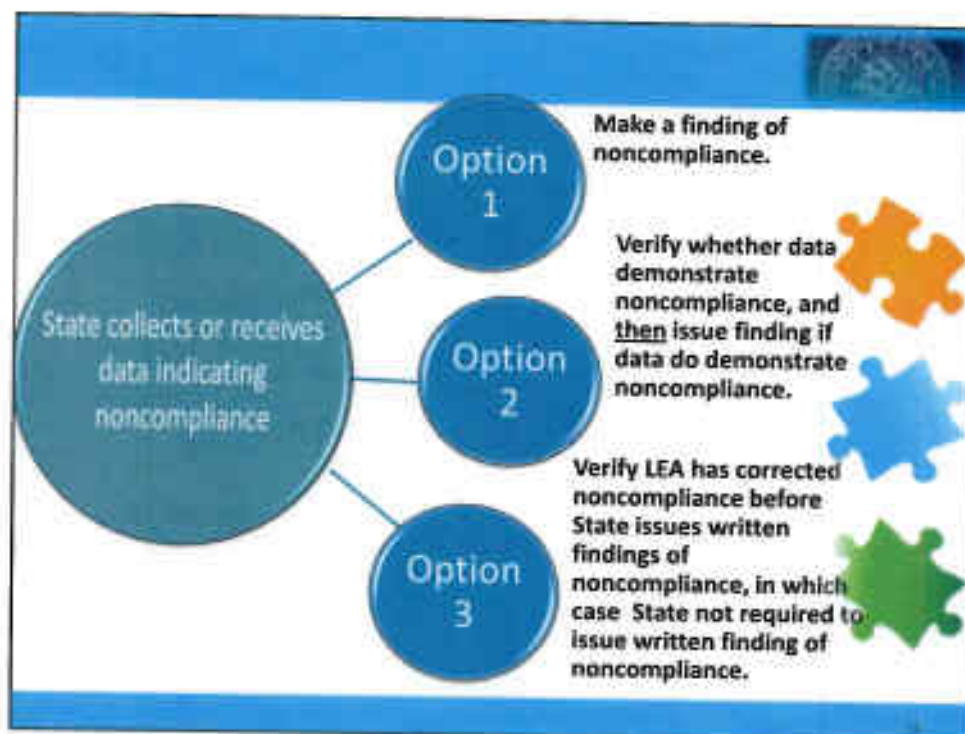
### Key Principle 3 - Identification



3. No. If a State identifies compliance that is less than 100%, it must:

1. Make a finding of noncompliance; or
2. Verify whether the data demonstrate noncompliance; or
3. Verify that the LEA has corrected the noncompliance before the State issues written findings of noncompliance.





## Thresholds - Problem 1

- A State found noncompliance in 4% of the student records it reviewed regarding the secondary transition content requirements (Indicator 13).
- The State did not, as also required, verify that correction had already occurred or make a finding of noncompliance, because the data showed a "high level of compliance."

## Thresholds - Problem 2

- An LEA submitted data through the State's database for Indicator 11 (timely initial evaluation).
- The data showed that the LEA met the timeline for 563/612 children (92%).
- Because the data showed a "high level of compliance," the State neither, as required, verified that correction had already occurred nor required correction.



## Correct approach: Problems 1 and 2

- The State must verify that correction has already occurred or ensure correction of the noncompliance when it finds any level of noncompliance.
- The nature of the corrective actions may vary depending on the extent of the noncompliance and other factors.





## 2010 OSEP Leadership Mega Conference

Collaboration to Achieve Success from Cradle to Career

### CORRECTION OF NONCOMPLIANCE



### Key Question 1 - Correction



Q1. What are the “two prongs” of verifying correction in OSEP Memo 09-02?



## Key Principle 1 – Correction

Two Prongs of Correction in OSEP Memo 09-02

- Prong 1 – LEA has corrected each individual case of noncompliance; and
- Prong 2 – LEA is correctly implementing the specific regulatory requirements (i.e. achieved 100% compliance), based on the State’s review of updated data.



## Key Question 2 - Correction

Q2. Do both prongs of OSEP Memo 09-02 apply to the verification of correction of all findings of noncompliance?



## Key Principle 2 – Correction

2. Yes. Both prongs of OSEP Memo 09-02 apply to correction of all findings of non-compliance, and noncompliance reported in APRs, whether there is a high level of compliance (but below 100%) or a low level of compliance.



## Problem - Two Prongs

- A State examined updated data to determine whether an LEA had corrected previously identified noncompliance.
- The State verified correction in the child records where it initially based its findings, but did not also verify, based on its review of updated data, that the LEA was correctly implementing the specific regulatory requirements.
- The State incorrectly concluded that the LEA had corrected the noncompliance.





## Correct Approach - Two Prongs

Before the State may conclude that the LEA has corrected the noncompliance, it must also examine updated data to ensure that the LEA has achieved 100% compliance.



## Key Question 3 - Correction

Q3. May States use “thresholds” for correction of noncompliance?



### Key Principle 3 – Correction

3. No. Consistent with the guidance in OSEP Memo 09-02 and the 2010 APR response tables, States must obtain updated data which can be:

- for less than the entire reporting period, and
- a subset of all children.

These data must reflect 100% compliance before a State can conclude and report that noncompliance has been corrected.



### Correction Thresholds - Problem 1

- A State monitored an LEA and found that in 5 of 20 records reviewed, students had not received timely evaluations.
- The State issued a finding of noncompliance and required correction within one year.



### Correction Thresholds - Problem 1



•To verify correction of the noncompliance, the State:

- ☐ Reviewed the records for the 5 students who had not received timely evaluations to ensure that, although late, they were evaluated; and
- ☐ Reviewed updated data (e.g., 20 new student records). In 18 of the 20 records (90%), the students were timely evaluated.

•The State incorrectly concluded that the LEA had corrected the noncompliance.



### Correct Approach - Problem 1



The State may not use a threshold of less than 100% to conclude that the LEA has corrected noncompliance. Before the State may conclude that the LEA has corrected the noncompliance, it must examine updated data to ensure that the LEA has achieved 100% compliance.





## Correction Thresholds - Problem 2



- A State reviewed 20 records and found that 18 records showed compliance and that two showed noncompliance with the requirement on which the State had made the finding of noncompliance.
- The State incorrectly closed the finding as the LEA verified that each individual case of noncompliance had been corrected.
- The State made a new finding of noncompliance on the two cases that showed noncompliance.



## Correct Approach – Example 2



- The finding remains open, because the updated data that the State reviewed did not show 100% compliance.
- The State would not make a new finding because the original finding would remain "open."



## Correct Approach – Example 2 (cont.)

- The State must ensure child-specific correction for the 2 records (from the updated data) in which the State found noncompliance.
- The State must review further updated data until the LEA achieves 100%.



## Summary



- States must ensure the timely correction of any noncompliance, regardless of the source of the data establishing the noncompliance.
- States may not use thresholds in identifying or verifying the correction of noncompliance.

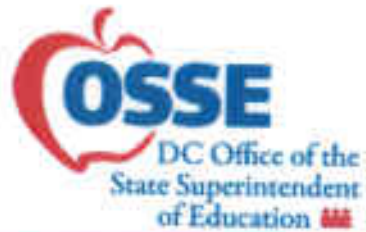


## Summary

- In verifying the correction of noncompliance, States must meet both prongs of OSEP Memo 09-02, by verifying that the LEA:
  1. Has corrected each individual case of noncompliance; and
  2. Is correctly implementing the specific regulatory requirements (i.e. achieved 100% compliance), based on the State's review of updated data.





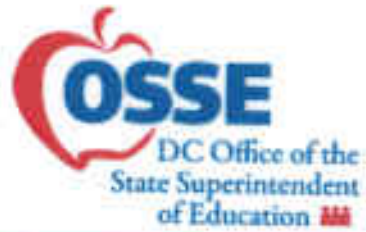


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Department of Special Education  
Office of Quality Assurance & Monitoring

## **Pre-Site Monitoring Visit Agenda**

- 8:30 – 8:45**    **Welcome/Introductions**
- 8:45 – 9:00**    **Purpose of Visit**
- 9:00 – 9:30**    **Visit Process/Agenda**
- **Agenda**
  - **Record Review**
    - **Space needed**
    - **Student files**
  - **Interviews**
    - **Space needed**
    - **Focus groups**
    - **List of teachers and students**
    - **Parent release form**
  - **Debrief**
- 9:30 – 10:00**    **Review Data**
- 10:00 – 10:30**    **Questions/Next Steps**



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Department of Special Education  
Office of Quality Assurance & Monitoring  
**On-Site Monitoring Visit Agenda**

**DAY 1: [Date]**

**8:30 – 9:00 Overview of On Site Monitoring Visit**  
A. Introductions  
B. Review agenda  
C. Schedule adjustments

**9:00 – 12:00 Record Reviews**

**12:00 – 1:00 Lunch Break**

**1:00 – 4:30 Record Reviews (cont.)**

**4:30 – 5:00 Debrief**  
A. Overall impressions  
B. Review interview schedule

**DAY 2: [Date]**

**8:30 – 9:00 Review Agenda**

**9:00 – 12:00 Interviews**  
A. Administrator(s)  
B. Related Service Providers  
C. Special Education Teachers  
D. General Education Teachers  
E. Special Education Coordinator  
F. Students  
G. Parents  
H. Budget Administrator/Fiscal Director

**12:00 – 1:00 Lunch Break**

**1:00 – 4:00 Interviews (cont.)**

**4:00 – 5:00 Exit Conference**

# OSSE Compliance Monitoring File Review (3/9/2010)

LEA Name _____		School Name _____		Teacher Name _____	
Student Name _____		Student ID _____		Date of Birth _____	
Record Review Completed by _____		Date of Record Review _____		Age group: <input type="checkbox"/> 3-5 <input type="checkbox"/> K-15 <input type="checkbox"/> 15+ <input type="checkbox"/> 18+	

Item #	Item Text	Response Criteria	Y	N	N	A	Corrective Actions: Student Level and LEA Level
C2B -1 §300.124(c)	The LEA attended the transition planning conference.	<p><b>Yes</b> = There is documentation that the LEA attended the transition planning conference.</p> <p><b>No</b> = There is no documentation that the LEA attended the transition planning conference.</p> <p><b>NA</b> = Student is not in early childhood special education and/or did not transfer from Part C.</p>					<p><b>Student Level:</b> Not correctable at student level.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must receive technical assistance in procedures and requirements for C to B transition planning conferences.</p>
C2B -2 §300.106(a)(2)	Early childhood transition ESY was considered at the IEP meeting.	<p><b>Yes</b> = There is documentation in the IEP that the team considered ESY services.</p> <p><b>No</b> = There is NO documentation in the IEP that the team considered ESY services.</p> <p><b>NA</b> = Student is not in early childhood special education and/or did not transfer from Part C.</p>					<p><b>Student Level:</b> Reconvene IEP team to consider ESY.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must receive technical assistance in procedures and requirements for C to B transition planning conferences.</p> <p>Pull next 10 (or all within next 6 months) files to determine if ESY was considered during IEP meeting.</p>



# OSSE Compliance Monitoring File Review (3/9/2010)

Ask IEV items only of students on their initial IEP. For reeval students, skip to REV-1.

IEV - 1 §300.503(a)(1)	Prior written notice was provided upon initial referral or parent request for evaluation.	Yes = Copy of prior written notice is in the file.  No = Copy of prior written notice was NOT in the file.	Student Level: Not correctable at the student level.  LEA Level: Review, and update if required, policy / procedures for evidence of maintaining necessary documentation in IEP files.  Provide documentation of above to OSSE.
IEV - 2 §300.504(a)(1)	Upon initial referral, or parent request for evaluation, parents were provided procedural safeguards.	Yes = There is documentation in the file that demonstrates that the parent received a copy of procedural safeguards at initial referral.  No = There is NO documentation in the file that demonstrates that the parent received a copy of procedural safeguards at initial referral.	Student Level: Provide a copy of procedural safeguards to parents.  LEA Level: Randomly select 10 additional files (initial IEPs) and document that procedural safeguards were provided in all cases. If not, provide copies of procedural safeguards to all parents of students who received initial evaluation in the past 12 months.  Provide documentation of above to OSSE.
IEV - 3 §300.300(a)	Parental consent obtained prior to conducting initial evaluation.	Yes = Signed consent form on file AND signature date was prior to initial evaluation.  No = No signed consent form in file OR consent form had signature date after initial evaluation.	Student Level: Not correctable at the student level.  LEA Level: Pull 10 random files to determine if consent was contained prior to reevaluation.  Provide evidence to OSSE of files meeting requirements.
IEV - 4 §300.306(c)	A variety of sources were used to determine initial eligibility.	Yes = Documentation from at least two sources: • Review of existing evaluation data, • Observations (classroom based, teacher and related service providers), • Current classroom, local or state assessment(s), AND • Evaluation and input from parents.  No = Documentation does NOT exist that supports two or more data sources were used to determine eligibility.	Student Level: Using multiple and appropriate sources, reconvene the IEP team to re-determine eligibility and the educational needs of the student.  LEA Level: Conduct training of LEA personnel on eligibility determination and correct eligibility determination procedures.  Review next 10 (or if less than 10 within six months, review all) initial eligibility files for correct

# OSSE Compliance Monitoring File Review (3/9/2010)

					eligibility determination process and sources for eligibility determination.
					Provide evidence to OSSE of files meeting requirements.
<b>REV Items only of students on a "re-eval" IEP. For initial eval students, skip to IEP-1.</b>					
REV - 1 §300.503	Prior written notice was provided to parent upon request for reevaluation.	Yes = Documentation of prior written notice upon parent request for evaluation.  No = No documentation of prior written notice upon parent request for evaluation.			<p><b>Student Level:</b> Not correctable at the student level.</p> <p><b>LEA Level:</b> Conduct training regarding the requirements for prior written notice.</p> <p>Provide documentation of above to OSSE.</p>
REV - 2 §300.300(c) (1)	Parent consent obtained prior to conducting reevaluation.	Yes = Signed consent form in file.  No = No signed consent form in file.			<p><b>Student Level:</b> Not correctable at the student level.</p> <p><b>LEA Level:</b> Pull 10 random files to determine if consent was contained prior to reevaluation.</p> <p>Provide evidence to OSSE of files meeting requirements.</p>
REV - 3 §300.305	IEP team reviewed existing data to determine continued eligibility.	<p>Yes = Documentation that IEP team reviewed:</p> <ul style="list-style-type: none"> <li>• Evaluations,</li> <li>• Information by the parents,</li> <li>• Current assessments,</li> <li>• Classroom observations, AND</li> <li>• Observations by teachers and related services providers.</li> </ul> <p>No = Documentation does NOT exist that supports that data was reviewed.</p>			<p><b>Student Level:</b> Using multiple and appropriate sources, reconvene the IEP team to re-determine eligibility and the educational needs of the student.</p> <p><b>LEA Level:</b> Conduct training of LEA personnel on eligibility determination and correct eligibility determination procedures.</p>
REV - 4 §300.306(c)	A variety of sources were used to determine continued eligibility.	<p>Yes = Documentation from at least two sources:</p> <ul style="list-style-type: none"> <li>• Aptitude and achievement tests,</li> <li>• Parent input,</li> <li>• Teacher recommendations,</li> <li>• Child's physical condition,</li> <li>• Child's background,</li> <li>• Adaptive behavior.</li> </ul> <p>No = Documentation does NOT exist that supports two or more data sources were used to determine eligibility.</p>			<p><b>Student Level:</b> Using multiple and appropriate sources, reconvene the IEP team to re-determine eligibility and the educational needs of the student.</p> <p><b>LEA Level:</b> Conduct training of LEA personnel on eligibility determination and correct eligibility determination procedures.</p>



# OSSE Compliance Monitoring File Review (3/9/2010)

IEP – 1 §300.322(a)	Parent was invited to IEP meeting.	<p><b>Yes</b> = A copy of the invitation to parent was in the file.</p> <p><b>No</b> = A copy of the invitation to parent was NOT in the file.</p> <p><b>NA</b> = Student 18 or over and rights have transferred.</p>	<p><b>Student Level:</b> Reconvene IEP meeting and invite parents.</p> <p><b>LEA Level:</b> Randomly select 10 files for evidence of parent invitation to IEP meeting. Provide evidence to OSSE of files meeting requirements.</p>
IEP – 2 §300.321(a)	Required participants were <b>invited</b> to the IEP meeting.	<p><b>Yes</b> = The IEP file contains evidence that ALL required participants were invited at least 10 calendar days prior to the meeting date. All participants include:</p> <ul style="list-style-type: none"> <li>• student (as appropriate),</li> <li>• qualified personnel to interpret evaluations,</li> <li>• general education teacher,</li> <li>• special education teacher, AND</li> <li>• LEA designee</li> </ul> <p><b>No</b> = All required participants were NOT invited.</p>	<p><b>Student Level:</b> Not correctable at the student level.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) IEP attendance policies and procedures to determine if they are consistent with Federal law. Provide documentation of the review to OSSE.</p>
IEP – 3 §300.321(a) §300.321(e)	General education teacher <b>attended</b> the IEP meeting.	<p><b>Yes:</b> If appropriate, the general education teacher was in attendance or agreement indicating excusal AND there is written evidence of general education teacher input.</p> <p><b>No:</b> The general education teacher was required but NOT in attendance AND written input from general education teacher was NOT evident. (Even if excusal exists.)</p>	<p><b>Student Level:</b> Not correctable at the student level.</p> <p><b>LEA Level:</b> Randomly select 10 files for evidence of general education teacher attendance at IEP meeting. LEA special education administrator(s) must review, revise and align (if necessary) IEP attendance policies and procedures to determine if they are consistent with Federal law. Provide documentation of the above to OSSE.</p>
IEP – 4 §300.321(a)	Special education teacher <b>attended</b> the IEP meeting.	<p><b>Yes:</b> If appropriate, the special education teacher was in attendance or agreement indicating excusal (by both LEA and parent) AND there is written evidence of special education teacher input.</p> <p><b>No:</b> The special education teacher was required but NOT in attendance AND written input from special education teacher was NOT provided. (Even if excusal exists.)</p>	<p><b>Student Level:</b> Not correctable at the student level.</p> <p><b>LEA Level:</b> Randomly select 10 files for evidence of special education teacher attendance at IEP meeting. LEA special education administrator(s) must review, revise and align (if necessary) IEP attendance policies and procedures to determine if they are consistent with federal law.</p>



# OSSE Compliance Monitoring File Review (3/9/2010)

					Provide documentation of the above to OSSE.
IEP – 5 §300.321(a)	The LEA designee <i>attended</i> the IEP meeting.	Yes: If appropriate, the LEA designee was in attendance or agreement indicating excusal (by both LEA and parent) AND there is written evidence of LEA designee input.  No: The LEA designee was required but NOT in attendance AND written input from LEA designee was NOT provided. (Even if excusal exists.)	Yes: If appropriate, the LEA designee was in attendance or agreement indicating excusal (by both LEA and parent) AND there is written evidence of LEA designee input.  No: The LEA designee was required but NOT in attendance AND written input from LEA designee was NOT provided. (Even if excusal exists.)	Student Level: Not correctable at the student level.  LEA Level: Randomly select 10 files for evidence of special education teacher attendance at IEP meeting.  LEA special education administrator(s) must review, revise and align (if necessary) IEP attendance policies and procedures to determine if they are consistent with Federal law.	Provide documentation of the above to OSSE.
IEP – 6 §300.321(a)	Person(s) familiar with tests and other assessments conducted as part of the most recent evaluation, who can interpret instructional implications, participated in the IEP meeting.	Yes: The person(s) familiar with tests and other assessments was in attendance or agreement indicating excusal (by both LEA and parent) AND there is written evidence of person(s) familiar with tests and other assessments input.  No: The person(s) familiar with tests and other assessments was NOT in attendance AND written input was NOT provided. (Even if excusal exists.)  NA = Initial evaluation or reevaluation was not discussed at the IEP meeting.	Yes: The person(s) familiar with tests and other assessments was in attendance or agreement indicating excusal (by both LEA and parent) AND there is written evidence of person(s) familiar with tests and other assessments input.  No: The person(s) familiar with tests and other assessments was NOT in attendance AND written input was NOT provided. (Even if excusal exists.)	Student Level: Reconvene the IEP meeting with attendance from person(s) familiar with tests and other assessments.  LEA Level: LEA special education administrator(s) must review, revise and align (if necessary) IEP attendance policies and procedures to determine if they are consistent with Federal law.	Provide documentation of the above to OSSE.
IEP – 7 §300.320(a)(2)(i)	The IEP contains a statement of measurable annual goals.	Yes: IEP contains goals that are measurable.  No: The IEP does NOT contain goal(s) OR goal(s) not measurable.	Yes: IEP contains goals that are measurable.  No: The IEP does NOT contain goal(s) OR goal(s) not measurable.	Student Level: Reconvene the IEP meeting to develop measurable goals.  LEA Level: Randomly select 10 files for evidence of measurable IEP goals.	Provide documentation of the above to OSSE.
IEP – 8 §300.320(a)(3)(i)	Student's file contains progress data relative to annual goals and objectives.	Yes: Student progress data are present in file.  No: Student progress data are NOT present in file.	Yes: Student progress data are present in file.  No: Student progress data are NOT present in file.	Student Level: Collect and file student progress data relative to annual goals and objectives.  LEA Level: Train school personnel on collecting student progress data.	Provide documentation of the above to OSSE.

**OSSE Compliance Monitoring File Review (3/9/2010)**

IEP – 9 §300.106	File contains evidence that ESY was considered.	Yes: The IEP documents that ESY services were considered.  No: The IEP does NOT document ESY services were considered.			<p><b>Student Level:</b> Reconvene IEP team to consider ESY.</p> <p><b>LEA Level:</b> Train special education personnel on ESY services and ESY consideration.  Randomly select 10 files for evidence of ESY consideration.  Provide documentation of the above to OSSE.</p>
IEP – 10 §300.320(a)(1)	IEP documents a PLAAFP that states how disability affects involvement in general curriculum (8-21) or how the disability affects student's involvement in appropriate activities (3-5).	<p><b>Yes:</b> How disability affects involvement or impact of disability on involvement in age appropriate activities is documented in IEP.</p> <p><b>No:</b> How disability affects involvement or impact of disability on involvement in age appropriate activities is NOT documented in IEP.</p>			<p><b>Student Level:</b> Reconvene IEP meeting and correct component of the IEP.</p> <p><b>LEA Level:</b> Train special education personnel and other appropriate staff on completing PLAAFP.  Provide documentation of the above to OSSE.</p>
IEP – 11 §300.321(b)(2)	The IEP includes documentation that the student's preferences and interests were considered.	<p><b>Yes</b> = Documentation is present in IEP.</p> <p><b>No</b> = Documentation is NOT present in IEP.</p> <p><b>NA</b> = Student attended IEP meeting.</p>			<p><b>Student Level:</b> In student's next annual IEP, include documentation of student's preferences and interests.</p> <p><b>LEA Level:</b> Train LEA personnel on how to identify and document student preferences and interests.  Provide documentation of the above to OSSE.</p>
IEP – 12 §300.520(a)(1) §300.320(c)	At least one year before the student turned 18, the student and parent was informed that rights would transfer at age 18.	<p><b>Yes</b> = Documentation of transfer of rights found in IEP file.</p> <p><b>No</b> = No documentation of transfer of rights found in IEP file.</p> <p><b>NA</b> = Student under age 17 and transfer of rights not yet occurred.</p>			<p><b>Student Level:</b> Obtain and file documentation of notification to student.</p> <p><b>LEA Level:</b> LEA must develop plan for notifying parents and students of the transfer of student rights.  Provide documentation of the above to OSSE.</p>
LRE - 1 §300.116(b)(2)	The student's placement is based on his/her IEP.	<p><b>Yes</b> = There is a clear alignment between the student's IEP and the student's placement.</p> <p><b>No</b> = The student's IEP does not justify the student's placement.</p> <p><b>NA</b> = In the past year, the student's placement was</p>			<p><b>Student Level:</b> Reconvene IEP team within 30 days of report and determine appropriate placement.</p> <p><b>LEA Level:</b> LEA must develop plan to review continuum of services when considering student placement.</p>



# OSSE Compliance Monitoring File Review (3/9/2010)

		determined through an HOD.			Provide documentation of the above to OSSE.
Has student been removed from the regular education environment?			<p>If Yes = Continue with LRE - 2.</p> <p>If No = Skip to DSP - 1</p>		
LRE - 2 §300.114 (a)(2)(i)	<p>After eligibility determination, appropriate supplemental aids and services were used before removing the student from the regular education environment.</p>	<p>Yes= The IEP documents that supplemental aids and services were used in the regular education environment before removing the student from the regular educational environment.</p> <p>No= The IEP does NOT clearly document the use of supplementary aids and services prior to removing the student from the regular educational environment OR the IEP documents inappropriate aids and services.</p>		<p><b>Student Level:</b> Reconvene IEP team to consider a less restrictive environment with appropriate supplemental aids and services.</p> <p><b>LEA Level:</b> LEA /school staff must receive technical assistance regarding implementing supplementary aids and services in the regular educational environment.</p>	
LRE - 4 §300.116(b)	The student's placement was determined annually.	<p>Yes = 365 days or less have passed since the last IEP was written.</p> <p>No = More than 365 days have passed since the last IEP was written.</p>		<p><b>Student Level:</b> Convene IEP team within 30 days of report.</p> <p><b>LEA Level:</b> LEA must develop plan for scheduling timely IEPs.</p> <p>Provide documentation of the above to OSSE.</p>	
LRE - 5 §300.116(d)	In selecting the LRE, there was consideration of any harmful effects on the student or on the quality of services needed.	<p>Yes = The IEP file contains documentation that the IEP team considered harmful effects on the student or on the quality of services.</p> <p>No = The IEP file does NOT contain documentation that harmful effects were considered by the IEP team.</p> <p>NA = In the past year, the student's placement was determined through an HOD OR student placement is regular classroom.</p>		<p><b>Student Level:</b> In student's next annual IEP, justification for removal must include documentation of the consideration of harmful effects on student or on quality of services student needs.</p> <p><b>LEA Level:</b> Review next 10 IEPs (or if less than 10, review all) for documentation of consideration of harmful effects or quality of services. (Documentation to be included in justification section on LRE page of IEP.)</p> <p>Provide documentation of the above to OSSE.</p>	
DIS - 1 §300.530(d)	Student received educational services after removal of more than 10 days in the same school year.	<p>Yes = File contains documentation that student received services after the tenth day of disciplinary removal.</p> <p>No = File does NOT contain documentation that student received services after the tenth day of disciplinary removal.</p>		<p><b>Student Level:</b> IEP team must convene to determine if compensatory education is appropriate.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline</p>	



# OSSE Compliance Monitoring File Review (3/9/2010)

		NA = Student was not removed for more than 10 days. (If NA, skip to DAT-1.)				<p>policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> IEP team must convene to determine if manifestation determination is necessary and if compensatory education is appropriate.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> FBA must be conducted and placed in student's file, and IEP team must use results of the FBA to create and implement a behavioral intervention plan.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> BIP must be developed, placed in student's file and implemented.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p>
DIS - 2 §300.530(e) §300.536	As appropriate, students removed from educational setting for more than 10 days, within next 10 school days the IEP team met to determine if the behavior was a manifestation of the student's disability.	<p>Yes = Manifestation determination information is completed and in file.</p> <p>No = Manifestation determination information is NOT complete OR not found in file.</p> <p>NA = Student was not removed for more than 10 days.</p>				<p><b>Student Level:</b> IEP team must convene to determine if manifestation determination is necessary and if compensatory education is appropriate.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> FBA must be conducted and placed in student's file, and IEP team must use results of the FBA to create and implement a behavioral intervention plan.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> BIP must be developed, placed in student's file and implemented.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p>
DIS - 3 §300.530(f)	The LEA conducted a functional behavioral assessment.	<p>Yes = The results of the FBA are in the file.</p> <p>No = FBA was required but the file contains no evidence that FBA was conducted.</p> <p>NA = No FBA was required.</p>				<p><b>Student Level:</b> IEP team must convene to determine if manifestation determination is necessary and if compensatory education is appropriate.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> FBA must be conducted and placed in student's file, and IEP team must use results of the FBA to create and implement a behavioral intervention plan.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> BIP must be developed, placed in student's file and implemented.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p>
DIS - 4 §300.530(f)	The LEA developed a Behavioral Intervention Plan (BIP).	<p>Yes = The BIP is in the file, with evidence of review and modification if required.</p> <p>No = The BIP is NOT in the file OR there is no evidence that the BIP was reviewed and modified as required.</p> <p>NA = No BIP was required.</p>				<p><b>Student Level:</b> IEP team must convene to determine if manifestation determination is necessary and if compensatory education is appropriate.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> FBA must be conducted and placed in student's file, and IEP team must use results of the FBA to create and implement a behavioral intervention plan.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> BIP must be developed, placed in student's file and implemented.</p> <p><b>LEA Level:</b> LEA special education administrator(s) must review, revise and align (if necessary) discipline policies and procedures to determine if they are consistent with federal law.</p> <p>Provide documentation of the above to OSSE.</p>

# OSSE Compliance Monitoring File Review (3/9/2010)

DAT - 1 §§300.600, 300.601	Date of initial evaluation in file is same as date of initial evaluation in SEDS.	<p>Yes = Initial evaluation date in file is same as reported in SEDS.</p> <p>No = Initial evaluation date in file is NOT same as reported in SEDS.</p> <p>NA = Date of initial evaluation not found in file.</p>			<p><b>Student Level:</b> Find and correct initial evaluation date in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>
DAT - 2 §§300.600, 300.601	Date of reevaluation in file is same as date of reevaluation in SEDS.	<p>Yes = Reevaluation date in file is same as reported in SEDS.</p> <p>No = Reevaluation date in file is NOT same as reported in SEDS.</p> <p>NA = Date of initial evaluation not found in file.</p>			<p><b>Student Level:</b> Find and correct date of reevaluation in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>
DAT - 3 §§300.600, 300.601	Date of IEP development is same as date of IEP implementation in SEDS.	<p>Yes = Date of IEP development in file is same as reported in SEDS.</p> <p>No = Date of IEP development in file is NOT same as reported in SEDS.</p> <p>NA = Date of IEP development not found in file.</p>			<p><b>Student Level:</b> Find and correct date of IEP development in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>
DAT - 4 §§300.600, 300.601	Date of IEP implementation is same as date of IEP implementation in SEDS.	<p>Yes = Date of IEP implementation in file is same as reported in SEDS.</p> <p>No = Date of IEP implementation in file is NOT same as reported in SEDS.</p> <p>NA = Date of IEP implementation not found in file.</p>			<p><b>Student Level:</b> Find and correct date of IEP implementation in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>

**OSSE Compliance Monitoring File Review (3/9/2010)**

DAT – 5 \$\$300.600, 300.601	Date of birth in file is same as date of birth reported in SEDS.	Yes = Date of birth in file is same as reported in SEDS.  No = Date of birth in file is NOT the same as reported in SEDS.			<p><b>Student Level:</b> Find and correct date of birth in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>
DAT – 6 \$\$300.600, 300.601	Primary disability in file is same as primary disability reported in SEDS.	<p>Yes = Primary disability in file is same as reported in SEDS.</p> <p>No = Primary disability in file is NOT the same as reported in SEDS.</p>			<p><b>Student Level:</b> Find and correct primary disability in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>
DAT – 7 \$\$300.600, 300.601	Placement in file is same as placement reported in SEDS.	<p>Yes = Placement in file is same as placement reported in SEDS.</p> <p>No = Placement in file is NOT the same as reported in SEDS.</p>			<p><b>Student Level:</b> Find and correct placement in file or in SEDS.</p> <p><b>LEA Level:</b> Train personnel responsible for data entry of special education data.</p> <p>Provide documentation of the above to OSSE.</p>



# OSSE Compliance Monitoring File Review (3/9/2010)

LEA Name _____		School Name _____		Teacher Name _____	
Student Name _____		Student ID _____		Date of Birth _____	
Record Review Completed by _____		Date of Record Review _____			
Item #	Item Text	Response Criteria	Y	N	Corrective Actions: Student Level and LEA Level
<b>Ask STR items only of students age 15 and older.</b>					
STR - 1 §300.320(b)	There is an appropriate measurable postsecondary goal that addresses education OR training after high school.	<p><b>Yes</b> = The IEP contains at least one appropriate postsecondary goal in the area of education or training that is:</p> <ul style="list-style-type: none"> <li>• Measurable</li> <li>• Aligns with PLOP AND</li> <li>• Aligns with assessment results</li> </ul> <p><b>No</b> = The IEP does not contain a postsecondary goal in the area of education or training or the goal is not measurable or the goal does not align with present levels of performance and assessment results.</p>			<p><b>Student Level:</b> Convene IEP team to develop appropriate goal.</p> <p><b>LEA Level:</b> LEA must:</p> <ul style="list-style-type: none"> <li>- develop appropriate secondary transition policy, draft policy, and/or procedure(s).</li> <li>- provide documentation of transmittal of policy to all staff members and</li> <li>- within 60 days (of report) document that all IEPs developed within last 60 days contain appropriate transition goals.</li> </ul>
STR - 2 §300.320(b)	There is an appropriate measurable postsecondary goal that addresses employment after high school.	<p><b>Yes</b> = The IEP contains at least one appropriate postsecondary goal in the area of employment that is:</p> <ul style="list-style-type: none"> <li>• Measurable</li> <li>• Aligns with PLOP AND</li> <li>• Aligns with assessment results</li> </ul> <p><b>No</b> = The IEP does not contain a postsecondary goal in the area of employment or the goal is not measurable or the goal does not align with present levels of performance and assessment results.</p>			<p><b>Student Level:</b> Convene IEP team to develop appropriate goal.</p> <p><b>LEA Level:</b> LEA must:</p> <ul style="list-style-type: none"> <li>- develop appropriate secondary transition policy, draft policy, and/or procedure(s).</li> <li>- provide documentation of transmittal of policy to all staff members and</li> <li>- within 60 days (of report) document that all IEPs developed within last 60 days contain appropriate transition goals.</li> </ul>
STR - 3	If needed, there is an appropriate measurable	<b>Yes</b> = The IEP contains at least one appropriate postsecondary goal in the area of independent living			<p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> Convene IEP team to develop appropriate goal.</p>

# OSSE Compliance Monitoring File Review (3/9/2010)

\$300.320(b)	postsecondary goal that addresses independent living.	that is: <ul style="list-style-type: none"> <li>• Measurable</li> <li>• Aligns with PLOP AND</li> <li>• Aligns with assessment results</li> </ul> <p>No= The IEP does not contain a postsecondary goal in the area of independent living or the goal is not measurable or the goal does not align with present levels of performance and assessment results.</p> <p>NA= An independent living goal is not appropriate for the student.</p>			<p><b>LEA Level:</b> LEA must:</p> <ul style="list-style-type: none"> <li>- develop appropriate secondary transition policy, draft policy, and/or procedure(s),</li> <li>- provide documentation of transmittal of policy to all staff members and</li> <li>- within 60 days (of report) document that all IEPs developed within last 60 days contain appropriate transition goals.</li> </ul> <p>Provide documentation of the above to OSSE.</p>
STR - 4 \$300.320(b)	Postsecondary goal(s) are updated annually.	<p><b>Yes=</b> The file contains evidence that postsecondary goals were updated within the past year. (Or, this is the first IEP for the student which contains transition goals.)</p> <p><b>No=</b> There is no evidence that the postsecondary goals have been updated within the past year.</p>			<p><b>Student Level:</b> Convene IEP team to develop appropriate goal.</p> <p><b>LEA Level:</b> LEA must:</p> <ul style="list-style-type: none"> <li>- develop appropriate secondary transition policy, draft policy, and/or procedure(s),</li> <li>- provide documentation of transmittal of policy to all staff members and</li> <li>- within 60 days (of report) document that all IEPs developed within last 60 days contain appropriate transition goals.</li> </ul> <p>Provide documentation of the above to OSSE.</p>
STR - 5 \$300.320(b)	Postsecondary goal(s) are based on age appropriate transition assessments.	<p><b>Yes =</b> The file contains documentation that age appropriate transition assessment(s) were used (date administered and results listed) to develop student's postsecondary goals.</p> <p><b>No =</b> The file does NOT contain documentation that age appropriate transition assessment(s) were used to develop student's postsecondary goals.</p>			<p><b>Student Level:</b> Conduct age appropriate transition assessment(s) and convene IEP meeting to review results.</p> <p><b>LEA Level:</b> Provide training for IEP members related to transition assessments.</p> <p>Provide documentation of the above to OSSE.</p>
STR - 6 \$300.320	There are transition services in the IEP that will assist the student to meet postsecondary goal(s).	<p><b>Yes =</b> Transition services are present in the IEP.</p> <p><b>No =</b> Transition services are NOT present in the IEP.</p>			<p><b>Student Level:</b> Convene IEP meeting to identify transition services.</p> <p><b>LEA Level:</b> Provide training for IEP members concerning transition services.</p> <p>Provide documentation of the above to OSSE.</p>
STR - 7	Transition services include courses of study that will	<b>Yes =</b> Courses of study are included in the transition services.			<p>Provide documentation of the above to OSSE.</p> <p><b>Student Level:</b> Convene IEP meeting to identify transition</p>



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§300.320(b)(2)	enable the student to meet postsecondary goal(s).	No = Courses of study are NOT included in the transition services.			services, including courses of study.  <b>LEA Level:</b> Provide training for IEP members concerning transition services, including courses of study.  Provide documentation of the review to OSSE.
STR - 8  §300.321 (b)	There is evidence that the student was invited to the IEP meeting.	Yes = File contains the student's invitation to the IEP meeting.  No = File does NOT contain the student's invitation to the IEP meeting.			<b>Student Level:</b> In student's next annual IEP, invite and document the invitation of the student to the IEP meeting.  <b>LEA Level:</b> Provide training concerning invited/required transition IEP participants.  Provide documentation of the above to OSSE.
STR - 9  §300.321(b)	If appropriate, there is evidence that a representative of any participating agency was invited to the IEP team meeting WITH the prior consent of the parent or student who has reached the age of majority.	Yes = File contains evidence that a representative from a participating agency was invited to the IEP meeting AND parent/student consent for inviting participating agency was obtained.  No = One or both of the following documentation was NOT found: - IEP invitation to representative from participating agency, - parent/student consent to invite representative from participating agency.  NA = No participating agency appropriate. (If no transition services listed and are likely to be provided/paid for by an outside agency, then NA.)			<b>Student Level:</b> If appropriate in student's next annual IEP, there is evidence that a representative of any participating agency was invited to the IEP meeting with prior consent of parent or student (who has reached the age of majority).  <b>LEA Level:</b> Review next 10 transition IEPs (or if less than 10, review all) for evidence of invitation to, and parent/student consent of invitation to, representative of participating agency. (Documentation to be included in justification section on LRE page of IEP.)  Provide documentation of the above to OSSE.



# OSSE Compliance Monitoring File Review (3/9/2010)

LEA Level Review				
DSP – 1 §300.510(a)	The LEA holds resolution meetings within 15 days of receiving notice of a parent's due process complaint.	<p>Yes = Documentation confirms that all resolution meetings were held within 15 days.</p> <p>No = Documentation does NOT confirm that resolution meetings were held within 15 days.</p> <p>NA = No due process complaints have been filed against the LEA.</p> <p>Yes = Documentation confirms that all hearing officer decisions were implemented in a timely manner.</p> <p>No = Documentation does NOT confirm that all hearing officer decisions were implemented in a timely manner.</p> <p>NA = No hearing officer decisions have been issued against the LEA.</p> <p>Yes = State complaint files document receipt of information within 10 days of request.</p> <p>No = State complaint files do NOT document receipt of information within 10 days of request.</p> <p>NA = No State complaints have been filed against the LEA.</p> <p>Yes = State complaint files document timely correction of noncompliance identified in the decision letter.</p> <p>No = State complaint files do NOT document timely correction of noncompliance identified in the decision letter.</p> <p>NA = No State complaints have been filed against the LEA.</p>	<p>LEA Level: LEA must develop and implement a plan that addresses timely compliance with dispute resolution activities. Provide documentation of the above to OSSE.</p> <p>LEA Level: LEA must develop and implement a plan that addresses timely compliance with dispute resolution activities. Provide documentation of the above to OSSE.</p> <p>LEA Level: LEA must develop and implement a plan that addresses timely compliance with dispute resolution activities. Provide documentation of the above to OSSE.</p> <p>LEA Level: LEA must develop and implement a plan that addresses timely compliance with dispute resolution activities. Provide documentation of the above to OSSE.</p> <p>LEA Level: LEA must provide documentation of communication with NIMAC or documentation of providing students with instructional materials. Provide documentation of the above to OSSE.</p>	
DSP – 2 §300.600(e)	The LEA implements hearing officer decisions in a timely manner.			
DSP – 3 OSSE State Complaint Policy	The LEA provides information to OSSE regarding State complaints within 10 days of request.			
DSP – 4 §300.600(e)	The LEA timely implements corrective actions contained in the State complaint decision letter.			
NIM – 1 §300.172	The LEA provides instructional materials to blind students or other students with print disabilities.			

# OSSE Compliance Monitoring File Review (3/9/2010)

OSSE Compliance Monitoring - The Review (03/2019)						
		NA = The LEA does not serve blind students or other students with print disabilities.				
FIS - 1	The LEA has policy/procedure governing the preparation and approval of budgets and budget amendments for all funds.	<p><b>Yes =</b> The LEA has demonstrated that it has a policy/procedure.</p> <p><b>No =</b> The LEA has NOT demonstrated that it has a policy/procedure.</p>	<p><b>LEA Level:</b> The LEA must develop policy/procedure for governing the preparation and approval of budgets and budget amendments for all funds.</p> <p>Provide documentation of the above to OSSE.</p> <p><b>LEA Level:</b> The LEA must develop policy/procedure that ensures expenditures for federal grants do not exceed the approved allocation and that expenditures fall within the approved budget categories.</p> <p>Provide documentation of the above to OSSE.</p>			
FIS - 2	The LEA has an accounting record for each federal grant that it receives which tracks expenditures against approved grant budget.	<p><b>Yes =</b> The LEA has demonstrated that it has an accounting record.</p> <p><b>No =</b> The LEA has NOT demonstrated that it has an accounting record.</p>	<p><b>LEA Level:</b> The LEA must develop policy/procedure that ensures expenditures for federal grants do not exceed the approved allocation and that expenditures fall within the approved budget categories.</p> <p>Provide documentation of the above to OSSE.</p>			
FIS - 3	The LEA has a policy/procedure for awarding contracts that ensures the appropriate director/supervisor for each federal grant program has internal control for developing and awarding contracts.	<p><b>Yes =</b> The LEA has demonstrated that it has a policy/procedure.</p> <p><b>No =</b> The LEA has NOT demonstrated that it has a policy/procedure.</p>	<p><b>LEA Level:</b> The LEA must develop policy/procedure that ensures contracts supported by IDEA grant funds are approved by the appropriate grant director/supervisor before the contract is awarded.</p> <p>Provide documentation of the above to OSSE.</p>			
FIS - 4	The LEA has policies and procedures that ensure expenditures in the IDEA Reimbursement Workbooks (RW) are approved by staff familiar with approved grant application, IDEA, and Circular A-87.	<p><b>Yes =</b> The LEA has demonstrated that it has a policy/procedure.</p> <p><b>No =</b> The LEA has NOT demonstrated that it has a policy/procedure.</p>	<p><b>LEA Level:</b> The LEA must develop policy/procedure that ensures expenditures included in the IDEA RW are reviewed and approved by the appropriate grant director/supervisor before the RW is submitted.</p> <p>Provide documentation of the above to OSSE.</p>			
FIS - 5	The LEA has documentation sufficient to determine whether federal funds were obligated and reimbursement was sought within the approved grant period.	<p><b>Yes =</b> The LEA has demonstrated that it retains the necessary financial records and is cognizant of each grant cycles' obligation period.</p> <p><b>No =</b> The LEA did NOT demonstrate that it retains necessary financial records and is cognizant of each grant cycles' obligation period.</p>	<p><b>LEA Level:</b> The LEA must develop policy/procedure that ensures expenditures included in the IDEA RW fall within the correct grant period and are reviewed and approved by the appropriate grant director/supervisor before the RW is submitted.</p> <p>Provide documentation of the above to OSSE.</p>			
FIS - 6	The LEA retains financial records and relevant supporting documentation for the required time period, which is 5 years.	<p><b>Yes =</b> The LEA has demonstrated that it has a records retention policy that ensures financial records are retained for 5 years.</p> <p><b>No =</b> The LEA has NOT demonstrated that it has a records retention policy that ensures financial records</p>	<p><b>LEA Level:</b> The LEA must develop policy/procedure that ensures financial records are retained for 5 years.</p> <p>Provide documentation of the above to OSSE.</p>			



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			are retained for 5 years.			
FIS - 7	The LEA has controls in place to protect assets acquired with federal funds costing more than \$5,000.		Yes = The LEA has demonstrated that it has controls in place to protect assets acquired with federal funds costing more than \$5,000.  No = The LEA has NOT demonstrated that it has controls in place to protect assets acquired with federal funds costing more than \$5,000.			<b>LEA Level:</b> The LEA must develop policy/procedure that ensures assets procured with federal funds are protected, particularly those assets costing more than \$5,000.  Provide documentation of the above to OSSE.
FIS - 8	The LEA maintains a code of conduct standard/conflict of interest policy for employees involved in the administration of contracts.		Yes = The LEA has demonstrated that it has code of conduct/conflict of interest standards.  No = The LEA has NOT demonstrated that it has code of conduct/conflict of interest standards.			<b>LEA Level:</b> The LEA must develop code of conduct/conflict of interest policy for employees involved in the administration of contracts.  Provide documentation of the above to OSSE.
FIS - 9	The LEA has an accounting record that ensures federal funds are not co-mingled and accurately tracks expenditures assigned to each of its IDEA grants and applicable set-asides.		Yes = The LEA demonstrated that it has an accurate accounting record that does not co-mingle funds and correctly tracks grant expenditures.  No = The LEA has NOT demonstrated that it has an accurate accounting record that does not co-mingle funds and correctly tracks grant expenditures.			<b>LEA Level:</b> The LEA must develop policy/procedure that ensures federal funds and grant funds are not co-mingled and expenditures are properly tracked.  Provide documentation of the above to OSSE.
FIS - 10	The LEA appropriately charges salaries of personnel working on IDEA grant objectives and are supported with IDEA grant funds.		Yes = Based on the sample tested, the LEA has demonstrated that salaries are appropriately charged to its IDEA grant programs.  No = Based on the sample tested, the LEA has NOT demonstrated that salaries are appropriately charged to its IDEA grant programs.			<b>LEA Level:</b> The LEA must develop policy/procedure that ensures salaries of personnel who are paid with grant funds are charged appropriately.  Provide documentation of the above to OSSE.
FIS - 11	The LEA appropriately tracks the time and effort of personnel of are supported by IDEA grant funds.		Yes = Based on the sample tested, The LEA has demonstrated it keeps the appropriate time and effort records for personnel working on IDEA cost objectives.  No = Based on the sample tested, the LEA has NOT demonstrated it keeps the appropriate time and effort records for personnel working on IDEA cost objectives.			<b>LEA Level:</b> The LEA must develop policy/procedure that ensures OMB Circular A-87 Time and Effort requirements are followed.  Provide documentation of the above to OSSE.
FIS - 12	The LEA obligated costs within the correct grant period and after the Phase I application was approved.		Yes = Based on the sample tested, the LEA has demonstrated that it obligated IDEA expenditures after the Phase I application was approved AND within the appropriate grant period.  No = Based on the sample tested, the LEA has NOT demonstrated that it obligated IDEA expenditures after the Phase I application was approved OR within the appropriate grant period.			<b>LEA Level:</b> The LEA must submit invoices to OSSE for allowable expenditures, incurred within the correct grant period, that equate to the amount deemed to be disallowable. These invoices must not have been paid for by any other federal funding source previously.
FIS - 13	The LEA sought reimbursement for		Yes = Based on the sample tested, the LEA has demonstrated that it only sought reimbursement for			<b>LEA Level:</b> The LEA must include invoices and proof of payment documentation for all items



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	expenditures in the RW only after it actually paid for the item.	IDEA expenses it actually incurred.			included in its next RW.
FIS – 14	The LEA correctly recorded IDEA expenditures and revenue, including IDEA set-asides when applicable.	<p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that it only sought reimbursement for IDEA expenses it actually incurred.</p> <p><b>Yes</b> = Based on the sample tested, the LEA has demonstrated that it properly tracks expenditures and records revenue received from its IDEA grants at a detailed level.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that it properly tracks expenditures OR that it records revenue received from its IDEA grants at a detailed level.</p> <p><b>Yes</b> = Based on the sample tested, the LEA has verified it purchased and received the items it sought IDEA reimbursement for in the IDEA RW.</p> <p><b>No</b> = Based on the sample tested, the LEA was NOT verified it purchased and received the items it sought IDEA reimbursement for in the IDEA RW.</p>			<p><b>LEA Level:</b> Develop policy/procedure that ensures federal funds and grant funds are not co-mingled and expenditures are properly tracked.</p> <p>Provide documentation of the above to OSSE.</p>
FIS – 15	The LEA purchased and received the items it sought IDEA reimbursement for in the IDEA RW.	<p><b>Yes</b> = Based on the sample tested, the LEA has demonstrated that it followed the appropriate procurement procedures for developing and awarding contracts.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that it followed the appropriate procurement procedures for developing and awarding contracts.</p>			<p><b>LEA Level:</b> The LEA must (1) develop policies/procedures to ensure it receives the items it purchases with federal funds; (2) submit invoices to OSSE for allowable expenditures that equate to the amount deemed disallowable; and (3) include invoices and proof of payment documentation for all items included in its next RW.</p>
FIS – 16	The LEA has followed procurement procedures consistent with EDGAR and OMB Circular A-87 for developing and awarding contracts for services, supplies, and materials.	<p><b>Yes</b> = Based on the sample tested, the LEA has demonstrated that only allowable costs were charged to its IDEA grants.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that only allowable costs were charged to its IDEA grants.</p>			<p><b>LEA Level:</b> The LEA must review and revise its policies/procedures to ensure consistent compliance with local and federal regulations; (2) submit invoices to OSSE for allowable expenditures that equate to the amount deemed disallowable; and (3) include invoices and proof of payment documentation for all items included in its next RW.</p>
FIS – 17	The LEA has followed procedures consistent with IDEA, EDGAR, and OMB Circular A-87 to ensure that IDEA funds were expended only for allowable activities.	<p><b>Yes</b> = Based on the sample tested, the LEA has demonstrated that it correctly reviewed, paid, and retained records of invoices for expenditures included in its RW.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that it correctly reviewed, paid, and</p>			<p><b>LEA Level:</b> The LEA must (1) review and revise its policies/procedures to ensure consistent compliance with local and federal regulations; (2) submit invoices to OSSE for allowable expenditures that equate to the amount deemed disallowable; and (3) include invoices and proof of payment documentation for all items included in its</p>
FIS – 18	The LEA correctly paid and retained invoices for expenditures it included in its IDEA RW.				

# OSSE Compliance Monitoring File Review (3/9/2010)

		retained records of invoices for expenditures included in its RW.			next RW.
FIS – 19	If applicable, the LEA expenses to its IDEA grants in a manner consistent with its approved application, EDGAR, Curricular A-87, and IDEA-ARRA guidance.	<p><b>Yes</b> = Based on the sample tested, the LEA has demonstrated that it procures, utilizes, and charges equipment and property expenses to its IDEA grants appropriately.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that it procures, utilizes, and charges equipment and property expenses to its IDEA grants appropriately.</p> <p><b>NA</b> = LEA has not used IDEA funds for construction.</p>			LEA level: The LEA must reimburse OSSE for the misused funds within 60 days.
FIS – 20	If applicable, the LEA utilized IDEA funds [it was either required or voluntarily elected to set-aside] for providing Coordinated Early Intervening Services (CEIS) as outlined in its approved application and its submitted RW.	<p><b>Yes</b> = Based on the sample tested, the LEA demonstrated that it utilized the CEIS funds it was required to set-aside as outlined in its RW.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT demonstrated that it utilized the CEIS funds it was required to set-aside as outlined in its RW.</p> <p><b>NA</b> = LEA has not reserved funds for CEIS.</p>			<p><b>LEA Level:</b></p> <ul style="list-style-type: none"> <li>• <b>Voluntary Elections</b> - the LEA must modify its existing budgets and spending plans.</li> <li>• <b>Required Election</b> - the LEA must submit quarterly CEIS activity and expenditure reports to OSSE for the next three quarters.</li> </ul>
FIS – 21 §300.226(d)	If applicable, the LEA is properly tracking students who receive CEIS.	<p><b>Yes</b> = The LEA demonstrated that it has procedures in place to track the number of students who received CEIS and the number of students who subsequently received special education.</p> <p><b>No</b> = The LEA did NOT demonstrate that it has procedures in place to track the number of students who received CEIS OR the number of students who subsequently received special education.</p> <p><b>NA</b> = LEA has not reserved funds for CEIS.</p>			LEA Level: Within 90 days provide OSSE with the required documentation that the LEA has a policy/procedure to track students for two years and provide OSSE with CEIS report.
FIS-22 §300.134	If applicable, the LEA has undergone timely meaningful consultation with private school representatives and representatives of parents of parentally-placed private school students with disabilities.	<p><b>Yes</b> = The LEA has documentation that it engaged in meaningful consultation with representatives.</p> <p><b>No</b> = The LEA has NOT documented meaningful consultation with representatives.</p> <p><b>NA</b> = LEA not required to engage in consultation.</p>			LEA Level: Within 90 days LEA must provide documentation of meaningful consultation regarding child find, proportionate share, consultation process and provision of services (including written explanation if needed).
FIS-23	If applicable, the LEA has sought reimbursement for serving parentally placed students with disabilities in	<p><b>Yes</b> = The LEA has sought reimbursement this year for Equitable Services.</p> <p><b>No</b> = Based on the sample tested, the LEA has NOT</p>			LEA Level: The LEA must submit quarterly IDEA Equitable Services activity and expenditure reports to OSSE for the next three quarters.

# OSSE Compliance Monitoring File Review (3/9/2010)

	private schools in a manner consistent with IDEA.	sought reimbursement this year for Equitable Services.  NA = LEA not responsible for proportionate share.						
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Report	Reporting Period	Report Due Date
First Report	September 4, 2009 – December 4, 2009	January 11, 2010
Second Report	December 5, 2009 – March 5, 2010	April 1, 2010
Third Report	March 6, 2010 – June 6, 2010	July 1, 2010
Fourth Report	June 7, 2010 - September 1, 2010	October 1, 2010
Fifth Report	September 2, 2010 – December 1, 2010	January 10, 2011
Sixth Report	December 2, 2010 – February 1, 2011	March 1, 2011

**A. Initial Evaluations and Reevaluations**

- With respect to initial evaluations, the OSSE shall meet the benchmarks set forth below.

Benchmark Target Date	Evidence Standard
01/11/2010	<ul style="list-style-type: none"><li>• Seventy-five percent of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.</li><li>• Forty-five percent of children (a) who as of the end of the previous reporting period (September 3, 2009), had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, were provided initial evaluations and placements during the reporting period. (See section 2.A 1. (a),(b), and (c) of Enclosure E of the July 1, 2009 FFY 2009 Part B grant award letter. To calculate the percentage: (c) divided by (a) + (b) times 100).</li></ul>
04/01/2010	<ul style="list-style-type: none"><li>• Eighty percent of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.</li></ul>

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<b>Benchmark Target Date</b>	<b>Evidence Standard</b>
	<ul style="list-style-type: none"> <li>• Fifty-five percent of children (a) who, as of the end of the previous reporting period, had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, were provided initial evaluations and placements during the reporting period.</li> </ul>
<b>07/01/2010</b>	<ul style="list-style-type: none"> <li>• Eighty-five percent of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>• Sixty-five percent of children (a) who, as of the end of the previous reporting period, had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, were provided initial evaluations and placements during the reporting period.</li> <li>• The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue decreases from the reporting period of April 19, 2009-September 3, 2009.</li> </ul>
<b>10/01/2010</b>	<ul style="list-style-type: none"> <li>• Ninety percent or more of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>• Seventy-five percent of children (a) who, as of the end of the previous reporting period, had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, were provided initial evaluations and placements during the reporting period.</li> <li>• The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue decreases from the previous reporting period.</li> </ul>
<b>1/10/2011</b>	<ul style="list-style-type: none"> <li>• Ninety-five percent or more of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>• Eighty-five percent or more of children (a) who, as of the end of the previous reporting period, had not been provided a timely initial</li> </ul>

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Benchmark Target Date	Evidence Standard
	<p>evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, were provided initial evaluations and placements during the reporting period.</p> <ul style="list-style-type: none"> <li>The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue decreases from the previous reporting period.</li> </ul>
3/1/2011	<ul style="list-style-type: none"> <li>Ninety-five percent or more of children (a) who, as of the end of the previous reporting period, had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, were provided initial evaluations and placements during the reporting period.</li> </ul>

- With respect to reevaluations, the OSSE shall meet the benchmarks set forth below.

Benchmark Target Date	Evidence Standard
01/11/2010	<ul style="list-style-type: none"> <li>Seventy percent of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>Forty-five percent of children (a) who, as of the end of the previous reporting period (09/03/2009), had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, were provided triennial reevaluations during the reporting period. (See section 2.A 2. (a),(b), and (c) of Enclosure E of the July 1, 2009 FFY 2009 Part B grant award letter. To calculate the percentage: (c) divided by (a) + (b) times 100).</li> </ul>
04/01/2010	<ul style="list-style-type: none"> <li>Seventy-five percent of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>Fifty-five percent of children (a) who, as of the end of the previous</li> </ul>



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<b>Benchmark Target Date</b>	<b>Evidence Standard</b>
	<p>reporting period, had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, were provided triennial reevaluations during the reporting period.</p>
<p>07/01/2010</p>	<ul style="list-style-type: none"> <li>• Eighty percent of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>• Sixty-five percent of children (a) who, as of the end of the previous reporting period, had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, were provided triennial reevaluations during the reporting period.</li> <li>• The average number of days the reevaluations that had not been provided in a timely manner were overdue decreases from the reporting period of April 19, 2009-September 3, 2009.</li> </ul>
<p>10/01/2010</p>	<ul style="list-style-type: none"> <li>• Eighty-five percent or more of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>• Seventy-five percent of children (a) who, as of the end of the previous reporting period, had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, were provided triennial reevaluations during the reporting period.</li> <li>• The average number of days the reevaluations that had not been provided in a timely manner were overdue decreases from the previous reporting period.</li> </ul>
<p>1/10/2011</p>	<ul style="list-style-type: none"> <li>• Ninety percent or more of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>• Eighty-five percent or more of children (a) who, as of the end of the previous reporting period, had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, were provided triennial</li> </ul>

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Benchmark Target Date	Evidence Standard
	<p>reevaluations during the reporting period.</p> <ul style="list-style-type: none"> <li>The average number of days the reevaluations that had not been provided in a timely manner were overdue decreases from the previous reporting period.</li> </ul>
3/1/2011	<ul style="list-style-type: none"> <li>Ninety-five percent or more of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.</li> <li>Ninety-five percent or more of children (a) who, as of the end of the previous reporting period, had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, were provided triennial reevaluations during the reporting period.</li> </ul>

### B. *Implementation of Hearing Officer Decisions*

- The OSSE shall meet the benchmarks set forth below.

Benchmark Target Date	Evidence Standard
01/11/2010	<ul style="list-style-type: none"> <li>Fifty percent of hearing officer determinations<sup>2</sup> were implemented in a timely manner during the reporting period.</li> <li>Eighty percent of children whose hearing officer determinations, as of the end of the previous reporting period (September 3, 2009), had not been implemented within the required time frame (backlog) and whose hearing officer determinations had not been implemented within the required time frame during the reporting period had hearing officer determinations implemented during the reporting period. (See section 2.B.1. (a),(b), and (c) of Enclosure E of the July 1, 2009 FFY 2009 Part B grant award letter. To calculate the percentage: (c) divided by (a) + (b) times 100).</li> </ul>

<sup>2</sup> For purposes of this benchmark, "hearing officer determinations" does not include settlement agreements and the benchmark is calculated on a per child basis, not per hearing officer determination in cases where the same child has more than one hearing officer determination.

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<b>Benchmark Target Date</b>	<b>Evidence Standard</b>
04/01/2010	<ul style="list-style-type: none"> <li>• Sixty percent of hearing officer determinations were implemented in a timely manner during the reporting period.</li> <li>• Eighty-five percent of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the required time frame (backlog) and whose hearing officer determinations had not been implemented within the required time frame during the reporting period had hearing officer determinations implemented during the reporting period.</li> </ul>
07/01/2010	<ul style="list-style-type: none"> <li>• Seventy percent of hearing officer determinations were implemented in a timely manner during the reporting period.</li> <li>• Ninety percent of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the required time frame (backlog) and whose hearing officer determinations had not been implemented within the required time frame during the reporting period had hearing officer determinations implemented during the reporting period.</li> </ul>
10/01/2010	<ul style="list-style-type: none"> <li>• Eighty percent or more of hearing officer determinations were implemented in a timely manner during the reporting period.</li> <li>• Ninety-five percent or more of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the required time frame (backlog) and whose hearing officer determinations had not been implemented within the required time frame during the reporting period had hearing officer determinations implemented during the reporting period.</li> </ul>
1/10/2011	<ul style="list-style-type: none"> <li>• Ninety percent or more of hearing officer determinations were implemented in a timely manner during the reporting period.</li> </ul>
3/1/2011	<ul style="list-style-type: none"> <li>• Ninety-five percent or more of hearing officer determinations were implemented in a timely manner during the reporting period.</li> </ul>



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**C. *Identification and Correction Of Noncompliance And Ensuring Placement In The Least Restrictive Environment (LRE)***

- The OSSE shall meet the benchmarks set forth below.

<b>Benchmark Target Date</b>	<b>Evidence Standard</b>
01/11/2010 04/01/2010 07/01/2010 10/01/2010	<ul style="list-style-type: none"><li>• Monitoring reports and/or other documents issued by the OSSE to individual LEAs during the reporting period identify areas of noncompliance with the IDEA, including if appropriate, noncompliance with the LRE requirements, and the basis for the OSSE's conclusion that there is noncompliance with the applicable requirements.</li></ul>
1/10/2011 3/1/2011	<ul style="list-style-type: none"><li>• LEAs are notified in writing of any identified noncompliance no later than three months from the OSSE's discovery of the noncompliance.</li><li>• LEAs are notified in writing of corrective actions required to remedy the noncompliance and that the noncompliance must be corrected as soon as possible and in no case later than one year from identification (i.e., the date on which the State provided written notification to the LEA of the noncompliance).</li><li>• The OSSE shall, based on reporting it shall require from the District's LEAs, report on each LEA's provision of the continuum of services mandated by IDEA.</li><li>• The OSSE shall report on January 11, 2010 whether each LEA has executed the OSSE mandated form certifying its participation in SEDS in order to meet the District's federal reporting requirements.</li><li>• Starting with the April 1, 2010 report, the OSSE shall report whether each LEA has timely certified to the OSSE that the LEA has provided within SEDS the accurate, complete and up to date data required by the OSSE for IDEA compliance and federal reporting requirements.</li></ul>

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**D. Data for SPP/APR Indicators 9 and 10 (Disproportionate Representation Due to Inappropriate Identification) and 17 (Timeliness of Due Process Decisions)**

- The OSSE shall meet the benchmarks set forth below.

Benchmark Target Date	Evidence Standard
4/1/2010	<ul style="list-style-type: none"><li>• The State timely reported on its APR due February 1, 2010, consistent with the required measurement and instructions, FFY 2008 data for Indicators 9 and 10 and FFY 2008 data from August 11, 2008 through June 30, 2009 for Indicator 17.</li></ul>

**E. Secondary Transition**

- The OSSE shall meet the benchmarks set forth below.

Benchmark Target Date	Evidence Standard
01/11/2010	<ul style="list-style-type: none"><li>• The OSSE shall provide a detailed plan and timeline for completion of a random sampling of at least 100 individualized education programs (IEPs) of youth aged 16 and above to be reviewed for IEP secondary transition content during each of the subsequent reporting periods (which may include a procurement of these services from a vendor). The OSSE shall provide a copy of its communication to LEAs regarding the conduct of this sampling.</li></ul>
04/01/2010	<ul style="list-style-type: none"><li>• The OSSE selects a new random sample of at least 100 IEPs of youth aged 16 and above to be reviewed for IEP secondary transition content during the reporting period.</li><li>• Of the IEPs randomly selected for review, seventy-five percent of youth aged sixteen and above had IEPs that included the required secondary transition content.</li></ul>
07/01/2010	<ul style="list-style-type: none"><li>• The OSSE selects a new random sample of at least 100 IEPs of youth aged 16 and above to be reviewed for IEP secondary transition content during the reporting period.</li></ul>

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Benchmark Target Date	Evidence Standard
	<ul style="list-style-type: none"><li>• Of the student records reviewed, eighty percent of youth aged sixteen and above had IEPs that included the required secondary transition content.</li></ul>
10/01/2010	<ul style="list-style-type: none"><li>• The OSSE selects a new random sample of at least 100 IEPs of youth aged 16 and above to be reviewed for IEP secondary transition content during the reporting period.</li><li>• Of the student records reviewed, eighty-five percent or more of youth aged sixteen and above had IEPs that included the required secondary transition content.</li></ul>
1/10/2011	<ul style="list-style-type: none"><li>• The OSSE selects a new random sample of at least 100 IEPs of youth aged 16 and above to be reviewed for IEP secondary transition content during the reporting period.</li><li>• Of the student records reviewed, ninety percent or more of youth aged sixteen and above had IEPs that included the required secondary transition content.</li></ul>
3/1/2011	<ul style="list-style-type: none"><li>• The OSSE selects a new random sample of at least 100 IEPs of youth aged 16 and above to be reviewed for IEP secondary transition content during the reporting period.</li><li>• Of the student records reviewed, ninety-five percent or more of youth aged sixteen and above had IEPs that included the required secondary transition content.</li></ul>

### IV. RELEASE OF FUNDS WITHHELD FROM FFY 2009 PART B GRANT AWARD

The parties agree that the funds withheld from the FFY 2009 Part B grant award (the "Withheld Funds") will be released into the Department's GAPS/G5 account for the District of Columbia (i.e., subject to drawdown) upon execution of this Agreement. The Withheld Funds will be deposited into a separate account in GAPS/G5. However, the OSSE shall only drawdown those Withheld Funds after it has reported on the specified dates, consistent with the terms of this Agreement and the Department has provided written notice to the OSSE that it has successfully met the corresponding benchmarks for the reporting period. If the OSSE draws down Withheld Funds before the Department has provided written notice to the OSSE that the funds are released consistent with the terms of this Agreement or draws down funds in excess of the corresponding scheduled amounts on the table below, the Department will immediately terminate the



**Determinations of the Status of Local Programs by State Agencies  
Under Parts B and C of the  
Individuals with Disabilities Education Act (IDEA)**

It will be necessary for States to consider a number of factors when establishing their "Determinations" process under IDEA sections 616 and 642. Certainly, the most important of these is to ensure that the process includes all of the required components. As discussed below, States *must* consider performance on compliance indicators, data integrity, uncorrected noncompliance issues and relevant audit findings. Developing a process that ensures consideration of all of these factors will likely involve a multi-faceted approach. Because each State is expected to develop a process that reflects their unique context, it is clear that a variety of strategies will be used to meet this federal requirement. However, despite anticipated differences in approach, there will also be some commonality with regard to the entire range of issues that States will address as well.

### **Purpose**

The purpose of this document is to provide guidance on the annual determinations that must be made under IDEA of local programs performance in meeting the requirements and purposes of the IDEA. This document addresses:

- OSEP requirements of States;
- Determination categories and state enforcement;
- Issues and challenges for States to consider in the decision making process now and in the future;
- Involving stakeholders in developing a determination process; and
- Resources and references.

### **OSEP Requirements of States**

OSEP provided guidance to States on how they are to make determinations of status of local programs. These are in the FAQ document of 10/19/2006  
([http://www.rfcnetwork.org/images/stories/FRC/spp\\_mat/determinations%20faq.doc](http://www.rfcnetwork.org/images/stories/FRC/spp_mat/determinations%20faq.doc)).

Below are OSEP requirements of states as stated in the FAQ document:

- States are required to enforce the IDEA by making "determinations annually under IDEA section 616(e) on the performance of each LEA under Part B and each EIS program under Part C.
- States must use the same four categories in IDEA section 616(d) as OSEP in making determinations of the status of LEAs/EIS programs. These categories are:
  - Meets Requirements;
  - Needs Assistance;
  - Needs Intervention; and
  - Needs Substantial Intervention.
- States **MUST** consider:
  - Performance on compliance indicators;

- Whether data submitted by LEAs/EIS programs are valid, reliable, and timely;
- Uncorrected noncompliance from other sources; and
- Any audit findings.
- In addition, States could also consider:
  - Performance on performance indicators; and
  - Other information.

There is nothing in the IDEA statute or regulations that addresses a timeline for when States must make their annual determinations regarding the performance of the LEAs/EIS programs in their States. However, States need to make the determinations as soon as possible after making their annual report to the public on the performance of each LEA/EIS program.

States must inform each LEA/EIS program of the State's determination regarding that LEA/EIS program. However, the IDEA does not require States to report to the Department or to the public the determinations the State makes regarding the performance of each LEA/EIS program, although States may choose to do so.

The State's public reports of LEA/EIS program performance and its determinations provide valuable data and information to these local programs on how their program compares to the State's targets. States will want to be timely in informing LEAs/EIS programs of their determinations so programs can take actions necessary for improvement. In addition, there may be implications under the State's determinations for the State's award of funds to LEAs/EIS programs so the State would ideally make its determinations before LEA subgrants are issued or funds under subawards or contracts are signed or renewed to EIS programs.

### **Determinations and Enforcement**

As noted above, States must use the same four categories as OSEP in making determinations of the status of local programs. These categories are

- Meets Requirements;
- Needs Assistance;
- Needs Intervention; and
- Needs Substantial Intervention.

Enforcement actions for these categories are described in section 616(e) of the IDEA and also in the Part B regulations at §§300.603 and 300.604. States must use appropriate enforcement actions listed at section 616(e) and in the Part B regulations at §300.600(a) that refers to the actions listed in §300.604. Not all of the enforcement actions included in section 616(e) and §300.604 may be applicable or appropriate for a State in determining the appropriate enforcement actions against specific LEAs/EIS programs. The Part B regulations at §300.600(a) specifically designate the enforcement actions that States must apply after an LEA is determined to "Need Assistance" for two consecutive years, "Need Intervention" for three or more consecutive years or immediately when an LEA is determined to be in "Need of Substantial Intervention."



In other words, when a State determines that an LEA:

- Needs Assistance for two consecutive years, the State must take one or more of the following enforcement actions in §300.604:
  - (a)(1): Advise programs of available sources of technical assistance to address areas on which the program needs assistance; or
  - (a)(3): Identify programs as high risk grantee and imposing conditions on use of funds.
- Needs Intervention for three or more consecutive years, the State must take one or more of the following actions in §300.604:
  - (b)(2)(i): Require the program to prepare or implement a corrective action plan to correct the identified area(s); or
  - (b)(2)(v): Withhold, in whole or in part, further payments to programs.
- Needs Substantial Intervention at any time, the State must take the following enforcement action in §300.604:
  - (c)(2): Withhold, in whole or in part, any Part B funds.

In addition to the minimum enforcement actions noted above, a State also may use any other enforcement mechanisms and actions available to it (such as those included in State rules, regulations, or policies) to enforce the IDEA. For example, a State might advise an LEA/EIS program of available technical assistance on areas on which the program needs assistance after the first year the program is identified as needing assistance, or require more rigorous reporting on the area needing improvement.

### **Issues and Challenges for the State**

States need to consider a number of issues in preparation for making determinations of the status of local programs.

- How can we ensure that the process for making determinations is perceived as fair and equitable?
- How can we develop a determinations process that can be clearly articulated and understood by LEAs/EIS programs?
- Will the decision making process be strictly internal – State staff – or involve stakeholders?
- What is the relationship of the public report and program determination?
- What will serve as the criteria to assign each LEA/EIS program in one of the four determinations categories?
- How will the State take into consideration data that are more recent than the last report to the public? How will the State take into consideration improvement even when programs do not meet the State target?
- How many compliance and results indicators should our State include to achieve a comprehensive process for making determinations?
- What standards are set by the State for determining whether local program data are valid, reliable, and timely?
- What specific criteria will be used, if any, besides those the State must use?
- Whether some outcome indicators have more importance in the State at a particular time?



- Does the State want to inform LEAs/EIS programs of their draft determinations to request feedback?
- Will the State have an appeals process by local programs?
- Should our State include student or system results indicators as well as the required compliance indicators?
- What is the message the State sends to the public if the criteria for making determinations relies solely on program's performance on procedural compliance indicators?
- Will the State consider data from dispute resolutions – complaints, hearings or appeals - as part of the State's criteria?
- How will the State incorporate new indicators into the decision making process in future years?
- To what extent can a State automate the determinations task?
- Does the State intend to report the determinations to the public (recognizing that the State's correspondence informing the LEA/EIS program is likely available to the public through State freedom of information laws)?
- How will the State use the determinations of LEAs/EIS programs to guide or inform the State in whether to revise its SPP improvement activities?
- How are State resources to be allocated for each of the determination levels? For example, how will the State allocate resources for LEAs/EIS programs identified in the needs assistance category?
- States are required to enforce the IDEA by making "determinations annually under IDEA section 616(e) on the performance of each LEA under Part B and each EIS program under Part C.
- What implications will making determinations have on current resources and allocation of resources?

### **Involving Stakeholders: State Advisory Panels and State Interagency Coordinating Councils**

State leadership—along with meaningful stakeholder involvement—are integral components in developing a determinations process that will be perceived as fair and equitable by LEAs/EIS programs. The functions of the State Advisory Panel (SAP) as described in section 1412(a)(21) of IDEA (Part B) and the State Interagency Coordinating Council (SICC) as described in section 635(a)(10) of IDEA (Part C) provide States with some mechanisms for obtaining stakeholder input and feedback on a wide variety of issues related to establishing a determinations process. As many well know, the role of the State Advisory Panel (SAP) is to advise on rules or regulations proposed by the State in such matters as evaluation and reporting data, the development of corrective action plans, and in policies related to coordinating Part B services provided to children and youth with disabilities. A similar advisory role is shared by the SICC, which must, under IDEA section 641(e)(1)(D), also prepare and submit an annual report to the Governor and the Secretary on the status of early intervention programs operated within the State. As such, both the SAP and the SICC can serve important roles in helping the State identify appropriate criteria in the determinations process.

In some instances, States may have a stakeholder group other than the SAP or SICC that has also assisted in the development of the State Performance Plan (SPP) and Annual



Performance Report (APR) and States may wish to continue the involvement of these stakeholders in developing the State's determinations process under Parts B and C of the IDEA. Even while acknowledging that States will likely involve various types of stakeholder groups to one extent or another, issues will need to be addressed regarding the general nature of their involvement. However, for those States seeking to more actively engage their SAPs and SICC in decision-making activities, the task of establishing a determinations process appears to be an ideal opportunity for this to occur.

Advantages in obtaining stakeholder input include:

- Involving stakeholders helps to diminish the burden of having only a relative few make decisions that will have widespread impact.
- Involving stakeholders helps to secure "buy-in," particularly from constituencies most likely to question the accuracy and efficacy of the determinations process.
- Involving stakeholders adds "transparency" to the decision-making process.

### **Nature of Stakeholder Involvement**

States will need to consider various issues related to *how* stakeholders will be involved in the development of the determinations process. As indicated previously, one very important thing to consider is the *extent* to which stakeholders will be involved. For example, some States may choose to deliberate internally and perhaps even "field test" various strategies before presenting these options a stakeholder group. In this capacity, the involvement of stakeholders will be largely advisory. In contrast, other States may wish to include stakeholders more directly in the development of the determinations process. In this case, stakeholders are involved from the very beginning in helping with decisions about the "nuts and bolts" of the determinations process. In any event, it is likely that States will select an option most consistent with their historical relationships in working with stakeholders. Irrespective of what approach to involving stakeholders is selected—States will need to consider questions related to the stakeholder process. Several of these questions are indicated below:

- *"To what extent will LEAs/EIS programs be represented as stakeholders?"*—A critical question since LEAs/EIS programs will be most directly impacted by the process the State uses to make determinations.
- *What process will be used to establish a consensus among stakeholders?*—Much of the work involved in setting criteria for determinations will be contingent upon agreement of "decision rules."
- *How will the stakeholder group be facilitated?*—Some States may consider using external facilitation by a person or entity perceived as "fair."

Stakeholders can play an important role in helping the State to develop strategies for the determinations process. As such, it is important for the State to recognize their potential contributions and begin the process of establishing a determinations process by approaching it as a "stakeholders first" attitude. One of the "latest" performance-based methods to support this way of thinking is reflected in the "Performance Prism," a model entirely predicated on the assumption, *Start with stakeholders—not strategies.* Research from Neely, Adams, and Kennerly (2002), for example, points out that strategies represent

the "route" you take—the *how* to reach the "final destination"—which, in this case, is developing a fair and equitable approach to making determinations on the performance of LEAs/EIS programs.

#### **Resources and References**

- SPP/APR Part C Indicator Overview  
([http://www.rrfcnetwork.org/images/stories/FRC/spp\\_mat/nac\\_materials/c%20indicator%20overview.doc](http://www.rrfcnetwork.org/images/stories/FRC/spp_mat/nac_materials/c%20indicator%20overview.doc))
- SPP/APR Part B Indicator Overview  
([http://www.rrfcnetwork.org/images/stories/FRC/spp\\_mat/nac\\_materials/b%20indicator%20overview.doc](http://www.rrfcnetwork.org/images/stories/FRC/spp_mat/nac_materials/b%20indicator%20overview.doc))
- Determinations Summary Report – Part C
- Determinations Summary Report – Part B



## **Determination FAQs (10/19/06)**

What are the Secretary's "Determinations?"

Based on information provided in the SPP, information obtained through monitoring visits and other public information, the Secretary will determine if the State--

- Meets the requirements
- Needs assistance
- Needs intervention
- Needs substantial intervention

What will OSEP consider in making the "Determinations?"

Department will consider all information available at the time of the determinations including:

- History, nature and length of time of any reported noncompliance
- Evidence of correction, including progress toward full compliance
- Information regarding valid and reliable data
- Special conditions
- Compliance agreements
- Audit findings
- Verification or focused monitoring findings

Are States required to make "Determinations?"

Pursuant to 616(a)(1)(C)(i) and 300.600(a), States are required to make "Determinations" annually under 616(d) on the performance of LEAs/EIS programs.

What should States consider in making their "Determinations?"

States MUST consider

- Performance on compliance indicators;
- Whether data submitted by LEAs/EIS programs is valid, reliable, and timely;
- Uncorrected noncompliance from other sources; and
- Any audit findings.

In addition, States could also consider:

- Performance on performance indicators; and
- Other information.

Must States use the same four categories as the Department will use?

- Yes, States must use "Meets Requirements, Needs Assistance, Needs Intervention, and Needs Substantial Intervention."

Is there a deadline for States to make the Determinations for their LEAs or EIS Programs?

- There is nothing in the statute or regulations that addresses a timeline for when States must make Determinations regarding the performance of the LEAs or EIS programs in their States. However, States need to make the Determinations as soon as possible after making their annual report to the public on the performance of each LEA or EIS program. It is important to ensure that LEAs and EIS Programs have time to improve performance prior to the next reporting to the State by each LEA or EIS program and the State's next

Determinations point. In addition, there may be implications for the State's award of funds to LEAs or EIS programs so the State would ideally make its Determinations before grants are issued or contracts are signed or renewed.

Must States report the Determinations of each LEA or EIS Program to the Department and/or the public?

- IDEA does not require States to report to the Department or to the public the Determinations the State makes regarding the performance of each LEA or EIS Program. States, of course, must inform each LEA or EIS Program of the State's Determination regarding that LEA or EIS program.



Appendix F  
Division of Special Education  
Office of Quality Assurance & Monitoring  
Nonpublic Monitoring Supplement

Legislation passed by the District of Columbia (District) Council in 2006, known as the Placement of Students with Disabilities in Nonpublic Schools Act (PSDNSA), established a Certificate of Approval (COA) process for nonpublic special education schools serving District students with disabilities. Additionally, as the State Education Agency (SEA) for the District, OSSE monitors Local Education Agencies (LEAs) to ensure compliance with the requirements of federal and District law for students enrolled in each LEA and attending a nonpublic school.

All nonpublic special education schools must receive a COA from OSSE prior to accepting any referral or placement of a District student with a disability or ward of the District with an Individualized Education Program (IEP) funded by the District government. Certain exceptions exist, including when a student is placed at an uncertified school by an Order of a Court of Law or a Due Process Hearing Officer Decision. In no case shall a COA at any level be awarded unless the school can demonstrate to the satisfaction of OSSE that the health and safety of students is protected and that the school is able to implement the provisions of each student's IEP.

OSSE is committed to ensuring that students educated in nonpublic settings are placed in the least restrictive environment; are receiving proper positive behavior supports; and are receiving appropriate services, including specialized instruction and transition services. Pursuant to D.C. Code §38-2561.07, nonpublic schools that are applying for a COA shall receive an evaluation which includes an on-site inspection of the operations and facilities of the school or program. OSSE will conduct an on-site inspection at least once during the period of the COA and may schedule other inspections as deemed necessary.

Nonpublic schools are responsible for maintaining compliance with all COA requirements and working collaboratively with the student's LEA to ensure that the student is receiving a free appropriate public education in the least restrictive environment. Ultimately however, the LEA responsible for a student's placement in a nonpublic school is responsible for ensuring that the Individuals with Disabilities Education Act (IDEA) is being implemented for each student placed in the nonpublic school. Therefore, should noncompliance with IDEA regulations be identified during the on-site visit, the responsible LEA will receive notice of the findings of noncompliance and be accountable for working collaboratively with the nonpublic school to correct the noncompliance as soon as possible, but in no case later than one year from the identification of noncompliance.

The on-site visit will mirror that of the compliance monitoring visit described on page 15 of this manual.



**Step 1: Identification of Nonpublic Schools for On-site Compliance Monitoring**

Nonpublic schools will be selected for an on-site compliance monitoring visit based on the date of the last on-site visit and the number and/or the nature of complaints received regarding the nonpublic school.

**Step 2: Notification of On-site Compliance Monitoring Selection**

Nonpublic school Chief Executive Officers and LEA directors will be notified by letter and electronic mail of the scheduled monitoring visit. The letter will include the:

- Date of the monitoring visit;
- Suggested date for the pre-site collaboration;
- Purpose of the visit and planned activities; and
- Documents and information required for the pre-site and on-site monitoring visits.

Nonpublic schools are expected to plan as soon as possible for the on-site monitoring visit. For example, as soon as possible after notification of the visit, nonpublic schools should plan for the accommodations and time needed for staff, family and student interviews and for OSSE record reviews. Likewise, LEAs should begin collecting documents requested prior to the pre-site collaboration.

**Step 3: Pre-site Collaboration**

The pre-site collaboration is an opportunity for the nonpublic school and OSSE staffs to discuss the purpose of the on-site visit, confer about the agenda for the on-site visit and agree on logistics. It is also an occasion for the nonpublic school to ask any questions regarding the visit and for the nonpublic school to provide OSSE with documents needed prior to the visit. The pre-site collaboration will typically take place via telephone however OSSE may choose to conduct the pre-site collaboration on-site if resources allow.

At a minimum, documents that should be available for the pre-site visit include:

- A list of all current employees with their titles and qualifications;
- Current roster of District students;
- District student attendance records;
- Documentation that all District students in tested grades participate in the DC-CAS or DC-CAS ALT;
- Policies and procedures regarding behavior including positive behavior supports and emergency behavioral interventions including seclusion and restraints; and
- Written plan regarding post-high school transition services and planning for students 16 and older.

The standard pre-site visit agenda is located at Appendix B.

**Step 4: On-site Compliance Monitoring Visit and Activities**

Following its notification letter to each selected nonpublic school and the subsequent pre-site visits, OSSE will conduct an on-site visit. If a nonpublic school has more than one campus or site, OSSE may conduct its on-site visit at multiple locations. Regardless of the number of locations OSSE chooses to visit, only one monitoring report will be issued.

During the on-site visit, OSSE will engage in the following activities:

- **Record Reviews:** OSSE will examine student files on-site as well as student information included in SEDS. Items that will be assessed during the record reviews are outlined in the nonpublic compliance monitoring tool and align with the monitoring standards. A copy of the nonpublic monitoring tool follows this supplement in Appendix F. Nonpublic schools are responsible for having student files available on the morning of the on-site visit. For nonpublic schools serving 5 or fewer District students, all student files will be reviewed. For nonpublic schools serving 6-20 District students with disabilities, 5 student files will be reviewed. For nonpublic schools serving 21-50 District students with disabilities, 10 student files will be reviewed. For nonpublic schools serving 51 or more District students, 15 student files will be reviewed. OSSE reserves the right to review additional student files if the nonpublic has previously displayed noncompliance or if a complaint has been filed against the nonpublic school during the period of the school's COA.
- **Interviews:** As a part of the site visit, OSSE will conduct individual interviews with the Chief Executive Officer or Executive Director of the nonpublic school, the school principal (if different), the director of special education (if different), at least two teachers (special education and general education), at least one related service provider, parents, and students. Other staff members may be interviewed at OSSE's discretion. Interviews with parents will typically take place separately from the on-site visit.
- **Classroom Observations/School Tour:** OSSE will tour the nonpublic school and/or observe classrooms or programs within the nonpublic school. The purpose of the tour/observations is to ensure the safety of District students placed in the nonpublic school and to verify information provided by the nonpublic school regarding the behavior management and academic instruction of District students.

#### **Step 5: Desk Review**

Following the on-site visit, OSSE will conduct a desk review of additional information available regarding the nonpublic school. Information reviewed may include, but is not limited to, data in SEDS, student attendance records, Encounter Tracking Forms submitted to the District of Columbia Public Schools (DCPS) Medicaid Recovery Unit for the purposes of Medicaid recoupment for school-based Health Related Services, Related Services Management Reports, other monitoring reports issued to the nonpublic school (e.g. LEA monitoring reports), the school's COA application, and/or the school's website.

#### **Step 6: Letter of Findings and Monitoring Report**

Within three months of the on-site visit, OSSE will notify the nonpublic school and the LEA responsible for the District student placed in the school of any findings of noncompliance identified during the on-site visit. Attached to the Letter of Findings will be a detailed monitoring report that will specifically outline student and LEA level noncompliance. The monitoring report will also delineate student and LEA level corrective actions necessary for the nonpublic school and/or the LEA to correctly implement the specific regulatory requirement. Monitoring reports are intended to promote the improvement of educational results and functional outcomes for students with disabilities through the identification of noncompliance. **For all identified noncompliance, the nonpublic school and/or the LEA must correct the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance.** The date of the monitoring report serves as the date of the identification of the noncompliance.



OSSE will make both student level and LEA level findings of noncompliance within the monitoring report. Noncompliance is corrected when the nonpublic school and/or the LEA can demonstrate that it is correctly implementing the specific regulatory requirement for all District students with disabilities. The monitoring report will detail the required student level and LEA level corrective actions required to assist the nonpublic school and/or the LEA in correctly implementing the specific regulatory requirement. OSSE may also require the nonpublic school and/or the LEA to conduct a root cause analysis to determine the reasons for the identified noncompliance. The requirement to conduct a root cause analysis may be contained within the monitoring report cover letter or the Additional LEA Corrective Actions section of the report.

#### **Step 7: Corrective Action Plans**

Contained within the monitoring report, OSSE will provide a list of required student level and LEA level corrective actions for noncompliance identified through record reviews and certain interviews. The outlined corrective actions will serve as the corrective action plan (CAP). The nonpublic school and/or the LEA may also be required to conduct a root cause analysis to determine the reasons for the identified noncompliance. Should the nonpublic school and/or the LEA be required to conduct a root cause analysis, OSSE will outline the required timeline within the monitoring report.

Corrective actions, whether generated through the monitoring report or through a CAP resulting from the root cause analysis, may be relatively uncomplicated and non-time consuming (e.g. correcting a data error in SEDS) or may be multifaceted and involved (e.g. developing a policy and procedures for ensuring appropriate discipline processes). Regardless of the level of the noncompliance, the noncompliance must be corrected as soon as possible but in no case later than one year after the identification of the noncompliance.

#### **Step 8: Verification of Correction of Noncompliance**

After the LEA has certified correction of student level and LEA level noncompliance, OSSE will verify the correction of noncompliance.

- To verify the correction of student level citations, OSSE will select a sample of the original student files reviewed to verify that the required action has been completed. Additionally, OSSE will select a sample of student files that were not originally reviewed or generate an updated report from SEDS to ensure that the LEA is correctly implementing the specific regulatory requirement.
- For LEA level noncompliance, OSSE will review documents submitted by the LEA that evidence the completion of required corrective actions and will select a sample of student files that were not originally reviewed or generate a report from SEDS to verify correction of noncompliance. Correction of noncompliance will be complete when the LEA can demonstrate that it is correctly implementing the specific regulatory requirement.

Pursuant to OSEP Memo 09-02, OSSE must verify the correction of noncompliance within one year of the identification of the noncompliance; therefore, verification activities will occur before the conclusion of the one-year timeline.



**Step 9: Closure of Findings of Noncompliance**

After OSSE has verified the correction of the noncompliance, OSSE will inform the nonpublic school and the LEA in writing that the finding of noncompliance is closed. Nonpublic schools and LEAs should continue to conduct record review activities to identify any areas of need that may arise before future OSSE monitoring activities. Longstanding noncompliance extending beyond the one-year correction period will result in additional enforcement actions by OSSE and will affect the LEA's annual determination. Further, longstanding noncompliance may affect the status of the nonpublic school's COA. Likewise, the LEA's timely correction of noncompliance will also be considered in the LEA's annual determination.